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,NIGER

ARBITRARY DETENTION AND ENFORCED DISAPPEARANCE BY THE NIGERIAN SECRET POLICE

Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights

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and other international human rights standards.

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GLOSSARY

| WORD | DESCRIPTION |
|--|--|
| ARRAIGN | To bring someone before a court to be informed of an offence |
| CAT | Convention against Torture Convention and Other Cruel, Inhuman or Degrading Treatment or Punishment |
| CHARGE TO COURT | When an accused person is charged of a specific crime in court |
| CPED | International Convention for the Protection of All Persons from Enforced Disappearance |
| SSS | State Security Services (also known as DSS???) |
| ICCPR | International Covenant on Civil and Political Rights |
| IPOB | Indigenous People of Biafra, an organization campaigning for calling for Biafra independence |
| HABEAS CORPUS | a writ requiring a person to be brought before a judge or court |
| JTF | Civilian Joint Task Force- a civilian militia allied to Nigeria's security forces |
| SECTION 34 OF THE NIGERIAN CONSTITUTION OF 1999 | –'Right to dignity of human persons' |
| SECTION 35 OF THE NIGERIAN CONSTITUTION OF 1999 | 'right to personal liberty' |
| SECTION 35 OF THE NIGERIAN CONSTITUTION OF 1999 | 'right to personal liberty' |
| TRIAL WITHIN A TRIAL' | Under Nigerian law the judge can decide to open a 'trial within a trial' when torture is suspected or alleged and the prosecutor |

must prove that a statement was made voluntarily

MAP?

1. EXECUTIVE SUMMARY

When I challenged my case officer, he told me the SSS is above the law of the land. The SSS only listen to the President. You people are just wasting your time.

A former detainee of SSS, who was released after 18 months of incommunicado detention

Everyone has the right to personal liberty. In international law, a lawful deprivation of such liberty, remains a recognized tool of the criminal justice system. In Nigeria, however, this tool is systematically abused on a large scale, leaving thousands of people without the fundamental protections of the law.

In recent years, thousands of people have been arbitrarily detained and hundreds, if not thousands, have become victims of enforced disappearance in Nigeria. There have been countless acts of torture, and at least 10,000 have died in military detention due to starvation, extreme overcrowding, and denial of medical assistance since 2011.

Among the institution most notably associated with this terrifying catalogue of crimes under international law has been the State Security Service (SSS). Amnesty International estimates, at a minimum, that the SSS is currently detaining at least 1200 people across various locations in Nigeria. Many have been arbitrarily detained for over five years and subjected to torture and other ill-treatment.

This report focuses on serious allegations of crimes relating to detentions carried out by the State Security Service (SSS), also known as the Department of State Services (DSS) – Nigeria's primary domestic intelligence agency, which has facilities in each of Nigeria's 36 states.

Within the purview of its responsibility for the internal security of Nigeria, the SSS describes its statutory role as being obligated by law to investigate threats of espionage, subversion and sabotage; economic crimes with a national security dimension; terrorist activities; separatist agitations and inter-group conflicts; and threats to law and order. The security challenges described in this report, therefore,

may all technically fall within the scope of the SSS, including the “conduct of countermeasures to curtail threats.”

The mission statement of the SSS notes explicitly that the provision of internal effective security coverage of the country must be “within the norms of democracy and rule of law.”

However, for many years, Amnesty International has received numerous credible reports that officials from the SSS have flouted domestic and international law by carrying out arbitrary detentions, keeping detainees incommunicado, conducting flawed investigations and even torturing or otherwise ill-treating those in their custody.

Terrorism legislation also grants the SSS the power to detain a suspect for 90 days without charge, provided the initial detention was ordered by the court; a provision that a court can renew any number of times “until the conclusion of the investigation and prosecution”, thereby in practice allowing indefinite detention without charge, in violation of international law.

Families of those detained have often been left in the dark, refused either information or even an audience with SSS officials in a desperate attempt to track their loved ones. Those with influence in government circle are forced to explore various back channels for information when the detention is not formally acknowledged by the SSS. Those with resources resort to the courts to extract information on the whereabouts of those detained and request their bail or release.

In some cases, the SSS has refused to comply with direct court orders to admit to bail or release detainees, forcing the family to return to court to seek enforcement of the original decision. Sometimes the only access a family has to their detained loved one is during a court appearance.

These desperate stories also play out against the backdrop of a flawed justice system which remains under-resourced, blighted by corruption and generally distrusted. The problems in Nigeria’s justice system vary from failures in the court system including issuing warrants of detention without seeing the individual, to delays in the system, especially when dealing with enforcement of fundamental human rights applications and in-camera proceedings, to the admission of evidence extracted through torture, and remanding suspects into the custody of the investigating authority.

Nigeria currently faces many pressing issues which pose challenges for its security forces, including the consequences of many years of the armed conflict in the north-east with the armed group Boko Haram; a resurgence of demands for an independent state of Biafra in the south-east; militant groups in the oil-rich Niger Delta; the bloody clashes between herders and farmers in the North-Central as well as inter-communal violence between ethnic groups.

Nigeria’s security challenges are accompanied by economic problems, compounded by the steep decline in the global price of oil, exchange-rate volatility, and continuing corruption.

However, none of these can excuse flagrant crimes under international law and human rights violations by Nigeria’s security services.

Nigeria needs strong political leadership, committed to reform, and an effective security sector governed by the rule of law to protect civilians from this range of violence and insecurity. Amnesty International recognizes the difficulties law enforcement and security officers encounter in carrying out their duties when faced with dangerous and violent situations and the personal risks they run. Research has consistently shown, however, that a catalogue of violations by some in their ranks – including those highly placed – and the signal failures to bring those suspected of criminal responsibility to justice, have eroded confidence in their ability to ensure the civilian population can enjoy the fundamental rights to life and security. The Nigerian government need to do more to demonstrate a serious commitment to tackling these violations by the SSS and addressing the broader environment of impunity that continues to hinder accountability in Nigeria.

Recommendations

Amnesty International is calling on the Nigerian authorities to ensure that all measures are taken to immediately end the practice of torture, ill-treatment and enforced disappearance by the SSS; implement into national law the International Convention for Protection of All Persons from Enforced Disappearance, including making declarations, pursuant to Articles 31 and 32 of the Convention, recognizing the competence of the Committee on Enforced Disappearance to receive and consider communications from or on behalf of individuals and other states parties, and to ensure that all allegations of torture, ill-treatment and enforced disappearance are promptly, thoroughly, independently and impartially investigated and, where sufficient admissible evidence exists, prosecute those suspected of criminal conduct in fair trials before ordinary civilian courts and irrespective of their rank and status.

2. METHODOLOGY

This report examines the practices of arrest, detention and investigation by the State Security Services (SSS). It builds on, and complements, Amnesty International's previous research on police and military practices, together with earlier cases involving the SSS.

The report is based on six research missions conducted by Amnesty International researchers between December 2015 and November 2021 to various parts of the country, each at least one week in length, to gather and verify information on 125 case studies of people who had been detained or remain in the custody of the SSS. Amnesty International researchers visited 26 locations in eight states and conducted more than 250 interviews with former detainees, family members of current detainees, lawyers and activists. Some of the interviews were conducted by telephone.

Although the exact number of people in SSS detention, and on what charges they are held, is not made public, a number of those who had been in their custody reported that they had been held with many others with similar stories of abuses. This, together with the fear many have of reprisals should they speak out, indicates that the true figure of those suffering violations at the hands of the SSS is likely to be higher than that indicated by the cross-section of cases highlighted in this report.

Amnesty International also interviewed members of Nigerian and international non-governmental organizations, human rights defenders, journalists, diplomats, religious and traditional leaders, and state and federal government officials.

The report also draws on court documents and letters from families, together with other desk research and a literature review concerning security and conflict in Nigeria. Information in the report is current as of November 2021

Interviews were voluntary, confidential and followed a semi-structured format, and those interviewed knew they would receive no compensation for providing their accounts. The interviews were conducted in English or the relevant local language, with professional interpretation where necessary. The interviewees were informed that their accounts would be kept confidential – the names of those interviewed have been changed to protect their anonymity, except for when consent was given to use their actual names. At times, information about the cases has been kept deliberately vague to protect the identity of those interviewed.

Amnesty International has addressed its concern about serious allegations of violations by the Nigerian security agencies including the SSS to the Nigerian authorities on various occasions.

Amnesty International extends its thanks to the individuals and organizations who consented to meet with its delegates and provide information for this report. In particular, the organisation wishes to extend its deep appreciation to those who shared their personal stories and trusted Amnesty International to raise their concerns. Their contributions have been crucial to identifying recommendations.

3. BACKGROUND

3.1 POLITICAL AND SECURITY CONTEXT

Nigeria currently faces many political and security challenges, notably the Boko Haram armed conflict in the northeast, militancy in the oil-rich Niger Delta, increasing violence between herders and farming communities across the middle belt and south, banditry in northwest, separatist Biafra agitation in the south east and inter communal violence between ethnic groups. Increasing violence, particularly by organized criminal gangs and bandits is creating huge concerns across the country. It has prompted the rise of civilian and state government-sponsored vigilante self-defence groups that pose new dilemmas and possible security risks.

These existing and emerging security challenges are aggravated by deep economic problems and social and political instability.¹

The UN Special Rapporteur on Extrajudicial executions noted in her 2021 report that the Nigerian government to contain these conflicts largely relies on “military and securisation strategies”. She concluded: “Security responses in Nigeria lack fairness and justice. They exacerbate the weaknesses of the policing and judicial institutions which are unable to resist the increasing pressure of the rising criminality, conflicts and security hot-points. The results are massive violations of human rights and humanitarian law, some of which may amount to crimes against humanity. The Special Rapporteur notes that the International Criminal Court has found that there to be a reasonable basis to believe that members of the Nigerian Security Forces as well as members of Boko Haram have committed acts constituting crimes against humanity and war crimes. She urges the ICC to open an investigation into these crimes without delay and calls on the Nigerian State to give its full cooperation.”²

BOKO HARAM

¹ <https://qz.com/africa/1421543/nigerias-poverty-crisis-is-worsening-oxfam-world-bank-data/>, accessed 24 April 2019

² Special Rapporteur on extrajudicial, summary or arbitrary executions, Mission to Nigeria (August-September 2019), A/HRC/47/33/Add.2

This conflict dates back to 2009, when the Islamist insurgent movement **Jamā'at Ahl As-Sunnah lid-Da'wah wa'l-Jihād**, popularly known as Boko Haram, began to wage a violent campaign against the Nigerian government and its people.

The conflict has spread and intensified due to a complex web of social-cultural, economic, ethno-religious and sub-regional factors. It has evolved into a non-international armed conflict between Boko Haram and Nigerian security forces in Borno, Yobe and Adamawa states, and has been marked by egregious crimes committed by both sides.

It has claimed at least 35,000 lives, mostly civilians, and forced more than one million people to flee their homes³.

Nigeria's president, Muhammadu Buhari, after his election in March 2015, has made defeating Boko Haram one of the central planks of his manifesto.⁴ In the past six years, regional and other international partners have collaborated with the Nigerian authorities to strengthen the military response to Boko Haram. The army has regained territory, and Boko Haram appears to have been weakened following the death of its leader Abubakar Shakau, carrying out fewer and smaller attacks, and on softer targets. However, the recent military success by the armed group calling itself Islamic State in West Africa Province (ISWAP), a splinter of Boko Haram, who currently operates from its territorial base on the banks and islands of Lake Chad, indicate that the two groups remain potent military forces.

However, what is abundantly plain is the extent to which their abuses continue to resonate both in Nigeria itself and the region beyond, leaving a humanitarian emergency in their wake.

While this report focuses on crimes under international law and human rights violations by an arm of Nigeria's security forces, Amnesty International has also consistently documented – and condemned – abuses by Boko Haram fighters who have wreaked havoc and suffering on the lives of millions of people in north-east Nigeria. The armed group has killed thousands of people, abducted at least 2,000, and crippled life in northeast Nigeria through a campaign of almost daily killings, bombings, abductions, looting and burning. Towns and villages have been pillaged. Schools, churches, mosques and other public buildings have been attacked and destroyed. Boko Haram has brutally mistreated civilians trapped in areas under its control and has disrupted the Nigerian authorities' provision of health, education, and other public services.⁵ Since the death of Boko Haram leader Abubakar Shakau in May 2021⁶, a splinter faction allied to the Islamic State group, called the Islamic

³ <https://www.cfr.org/nigeria/nigeria-security-tracker/p29483> accessed 29 July 2019

⁴ <https://www.naij.com/397306-top-general-buharis-promises-during-presidential-campaign.html>, accessed 24 April 2019 .

⁵ For further details see for example the Amnesty International report *Our job is to shoot, slaughter and kill: Boko Haram's reign of terror in north-east Nigeria*, April 2015, <https://www.amnesty.org/en/documents/afr44/1360/2015/en/>, and “*They set the classrooms on fire*”: *Attacks on education in Northeast Nigeria*, Human Rights Watch report, 11 April 2016, <https://www.hrw.org/report/2016/04/11/they-set-classrooms-fire/attacks-education-northeast-nigeria>

⁶ <https://www.csis.org/analysis/boko-harams-leader-dead-what-are-humanitarian-and-security-implications>

State's West Africa Province, has surpassed Boko Haram in size and capacity. It now ranks among Islamic State's most active affiliates in the region and is credited with several deadly attacks on the Nigerian military.⁷

PRO-BIAFRAN AGITATIONS

Nigeria is also facing unrest in the south and south-east over calls for an independent state of Biafra – previously a short-lived secessionist republic was defeated by Nigerian federal forces in 1970 after a three-year civil war which led to massive loss of life through starvation and fighting.

Political and economic grievances have continued to simmer, prompted by a sense of continued marginalization of the region. They erupted into protests by ethnic Ibo youth following the arrest in October 2015, by the Department of State Services, of Nnamdi Kanu – leader of the organization Indigenous People of Biafra (IPOB) and director of Radio Biafra. On 20 January 2016, Kanu and three others were charged with treason, and their case is ongoing. On 25 April 2017, Kanu was granted bail by an Abuja court and fled Nigeria after his bail was revoked in September 2017.

Confrontations between pro-Biafra supporters and the Nigerian security forces escalated, and between August 2015 and May 2016, Nigerian security forces killed at least 150 members and supporters of the pro-Biafra organization IPOB and injured hundreds during non-violent meetings, marches and other gatherings across the south-east.⁸ Further, the arrests of IPOB supporters are regularly reported in the media, including the arrest of 140 pro-Biafra supporters in Enugu on 23 May 2019⁹. Violence escalated in January 2021 after IPOB announced the formation of the Eastern Security Network (ESN) ostensibly to act as a regional security force to protect people against armed criminal herders. The Nigerian security forces responded with excessive and unlawful force, including an airstrike in Orlu, Imo state, on 21 February 2021.¹⁰ Since March 2021, dozens of police officers have been killed while unidentified gunmen attacked public housing Nigerian electoral body and police stations. The Nigerian authorities have blamed IPOB for the attacks.¹¹

NIGER DELTA

Communities in the oil-rich Niger Delta continue to suffer the consequences of oil spills over 25 years since, in 1995, environmental and human rights activist Ken Saro-Wiwa and eight community leaders were executed by the Nigerian state for protesting against the ecological disaster that oil production had caused in their homeland, Ogoniland. Protests over pollution alongside other economic and political grievances escalated in 2016, which severely disrupted Nigeria's oil industry before it was ended three years later, following a presidential amnesty programme for ex-

⁷ <https://www.thedefensepost.com/2021/02/22/jihadists-overrun-nigeria-army-base/>
<https://www.thedefensepost.com/2021/02/22/jihadists-overrun-nigeria-army-base/>

⁸ <https://www.amnesty.org/en/documents/afr44/5211/2016/en/>

⁹ <https://www.premiumtimesng.com/regional/south-east/331301-police-arrest-140-ipob-members-in-enugu.html> assessed 30

¹⁰ <https://www.vanguardngr.com/2021/02/tension-in-imo-as-nigerian-military-conducts-air-strikes-to-dislodge-eastern-security-network-operatives/>

¹¹ Suspected IPOB members attacked 164 police facilities, killed 175 security personnel – Nigerian govt: <https://www.premiumtimesng.com/news/headlines/491134-updated-suspected-ipob-members-attacked-164-police-facilities-killed-175-security-personnel-nigerian-govt.html>

militants which provided several training and financial incentives from the government.¹²

However, the government has recently reduced the budget for the programme, and grievances persist against a backdrop of continued poverty and oil pollution.¹³ Fears of a return to violence have increased with the public emergence in 2016 of a little-known group called the Niger Delta Avengers, claiming to be behind several recent attacks on oil industry infrastructure and assets there.¹⁴ However, the situation improved in early 2017 following peace overture by the federal government to political elders of the region.¹⁵ Security remains a big concern in the region.

HERDERS/ FARMERS CONFLICTS

An ongoing deadly conflict between pastoral herders mostly from Fulani ethnic group and farming communities over access to resources: water, land and pasture has left hundreds of people death.¹⁶ Farming communities in Benue, Adamawa, Taraba, plateau and Nassarawa has been worse hit by the violence. However, there were increased reports of killings in Delta, Ondo, Enugu, Anambra states.

Amnesty International's research shows that the government's inaction fuelled impunity, resulting in further attacks and reprisal attacks, with at least 153 people killed between in 2020 alone¹⁷

Since 2020 several states in Nigeria have taken initiatives to end the crises by enacting legislation banning open grazing of cattle and forming a security outfit to protect local farmers, a move opposed by the Nigerian Federal government. In June 2021 the Nigerian president said he had issued an order for the reclamation of grazing routes across the country as a permanent solution to end the ongoing clashes between nomadic herders and farmers. The move was widely opposed by state governments, mainly from the southern part of the country.

3.2 DEPARTMENT OF STATE SERVICE

The State Security Service (SSS), also known as the Department of State Service (DSS), is Nigeria's primary domestic intelligence agency. It is one of three such agencies which are together tasked with ensuring the security of Nigeria against threats from external and internal sources. The other two agencies are the National Intelligence Agency (NIA), responsible for external intelligence and counter-

¹² "Curbing Violence in Nigeria (III): Revisiting the Niger Delta", International Crisis Group Africa Report No. 231, 29 September 2015.

¹³ Niger Delta Avengers – Nigeria's newest militants, BBC News Online, 2 June 2016, <http://www.bbc.co.uk/news/world-africa-36414036>, accessed 15 June 2016. This reports that President Buhari has reduced funding for the amnesty programme by 70%, and has spoken of phasing it out entirely by 2018.

¹⁴ "Nigeria arrests 'Avengers' oil militants", BBC News Online, 16 May 2016, <http://www.bbc.co.uk/news/world-africa-36301835>, accessed 25 May 2019

¹⁵ <https://www.thecable.ng/osinbajo-hosts-niger-delta-elders-three-days-ultimatum>

¹⁶ Nigeria: The Harvest of Death – Three Years of Bloody Clashes Between Farmers and Herders in Nigeria. <https://www.amnesty.org/en/documents/afr44/9503/2018/en/>

¹⁷ <https://www.amnesty.org/en/location/africa/west-and-central-africa/nigeria/report-nigeria/>

intelligence, and the Defence Intelligence Agency (DIA), responsible for military-related intelligence.¹⁸

The Director-General of the SSS reports to the National Security Adviser (NSA), who in turn reports to the President of Nigeria. The SSS has state commands and offices in each of Nigeria's 36 states. Each state command is known to have detention facilities¹⁹. Within the purview of its responsibility for the internal security of Nigeria, the SSS describes its statutory role as being obligated by law to investigate threats of espionage, subversion and sabotage; economic crimes with a national security dimension; terrorist activities; separatist agitations and inter-group conflicts; and threats to law and order.

The National security Agency Act (Formerly Decree 19 of 5th June 1986) empowers the SSS to prevent and investigate any crime against the internal security of Nigeria, protect and preserve all non-military classified matters concerning the internal security of Nigeria, and such other responsibilities affecting internal security within Nigeria.²⁰ The scope of this power was expanded in 1999 by Decree No. 1 of 1999 to include the investigation of terrorism, threat of espionage, subversion; vetting of prospective appointees to public office and provision of timely advice to government on all matters of national security interest.²¹

It is debatable whether the powers of the SSS as stipulated by the extant laws encompass any power of investigating the many of the issues documented in this report, because many clearly fall within the functions of the police, under Section 4 of the Police Act, to prevent and detect crimes, and to maintain public safety, law and order, among others. The Nigerian courts have, in the past, ruled that the SSS lacks powers outside its statutory purview, state security matters and that "... while the SSS has a duty to assist in the arrest of offenders, it is the function of the police to investigate alleged offences (other than security matters) in accordance with the law before prosecution takes place if need be".²²

The security challenges described above, therefore, may all technically fall within the scope of the SSS including the conduct of counter measures to curtail threats.

As seen in this report, the SSS has not only gone beyond its power to arrest people for actions which do not pose any threat to national security. In addressing security challenges as listed above, it has also adopted measures that violate human rights and the rule of law.

The NSAC empowers the SSS to investigate cases bordering on state security but excluded the power to arrest and detain criminal suspect. Terrorism(Prevention) Act

¹⁸ The three agencies were formed in 1986 when the previous body, the Nigerian Security Organization, was restructured.

¹⁹ Amnesty International interview with a security official, 2 February 2021

²⁰ National Security Agencies Act : <https://lawsofnigeria.placng.org/view2.php?sn=336>

²¹ NATIONAL SECURITY AGENCIES ACT. <https://lawsofnigeria.placng.org/view2.php?sn=336>

²² Mufutau Balogun & Ors v. Attorney-General of the Federation (1994) 5 NWLR (Pt. 345) 442 at 456

however granted the SSS power of arrest and detention for a period of 90 days subject to a court order. For the continued detention of the suspect, the SSS must renew the detention order through the court.²³

²³ <https://placng.org/i/wp-content/uploads/2019/12/Terrorism-Prevention-Amendment-Act-2013.pdf>

4. NATIONAL AND INTERNATIONAL HUMAN RIGHTS FRAMEWORK

4.1 NIGERIA'S INTERNATIONAL OBLIGATIONS

Nigeria has taken on a range of international obligations by becoming a state party to several regional and international human rights treaties. These treaties include the International Covenant on Civil and Political Rights (ICCPR); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and its Optional Protocol (OPCAT); the International Convention for the Protection of All Persons from Enforced Disappearance (CPED); the African Charter on Human and Peoples' Rights (African Charter) and the Rome Statute of the International Criminal Court. They provide protective measures to ensure that individuals are not deprived of their liberty unlawfully or arbitrarily and safeguard detainees against other forms of abuses, including prohibiting the use of torture and other ill-treatment.²⁴

International law, which Nigeria is obliged to comply with, prohibits arbitrary arrest, detention or imprisonment²⁵, and hold that enforced disappearance and secret detention are arbitrary per se²⁶. In addition, detained and imprisoned people have a

²⁴ Nigeria ratified/acceded to the ICCPR in 1993, CAT in 2001, OPCAT in 2009 and the Convention on Enforced Disappearances in 2009 (source: United Nations Office of the High Commissioner for Human Rights, <http://indicators.ohchr.org/>). All these are mechanisms of the United Nations. The African Charter on Human and Peoples' Rights is an international human rights instrument that is intended to promote and protect human rights and basic freedoms in the African continent. Nigeria ratified the Charter in 1983 (source: <http://www.achpr.org/instruments/achpr/ratification/>).

²⁵ Article 9(1) of the ICCPR and Article 6 of the African Charter

right to communicate with the outside world, subject only to reasonable conditions and restrictions that are proportionate to a legitimate aim (Article 17(2)(d) of the Convention on Enforced Disappearance).²⁷

International law also requires that anyone arrested or detained is brought promptly before a judge or other officer authorized by law to exercise judicial power.²⁸ Also, everyone deprived of their liberty has the right to challenge the lawfulness of their detention before a court. The court must rule without delay and order for release if the detention is unlawful.²⁹

International law is unequivocal in absolutely prohibiting torture and other forms of cruel, inhuman or degrading treatment or punishment in all circumstances. Article 2(2) of CAT explicitly states: “No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture”. The Convention against Torture also notes that “statements and other forms of evidence elicited as a result of torture, ill-treatment or other forms of coercion must be excluded from evidence in all proceedings” (Article 15).

4.2 NATIONAL LEGAL FRAMEWORK

4.2.1 THE NIGERIAN CONSTITUTION

One of the key domestic instruments regulating the rule of law in Nigeria is its Constitution. The current Constitution of the Federal Republic of Nigeria dates from 1999 and, in Chapter IV, sets out a range of fundamental rights.³⁰ Section 35 confirms that every person is entitled to their personal liberty and may not be deprived of this except in certain prescribed instances and following a procedure permitted by law. This section also guarantees the right to remain silent or avoid answering any question until after consultation with a legal practitioner; that any person who is arrested or detained shall be informed in writing within 24 hours (and in a language that they understand) of the facts and grounds for their arrest or detention; the right to be brought before a court of law within a reasonable time; and, in the case of unlawful arrest or detention, the right to compensation and a public apology from the appropriate authority or person.

²⁶ Articles 2 and 17(1) of the Convention on Enforced Disappearances

²⁷ For a detailed guide to international and regional standards for fair trial, which set out minimum guarantees designed to protect the right to a fair trial in criminal proceedings, see Amnesty International, *Fair Trial Manual*, Second Edition, 9 April 2014 (Index: POL/30/002/2014), <https://www.amnesty.org/en/documents/POL30/002/2014/en/>

²⁸ (Article 9(3) of the ICCPR, Section M (3) of the Principles on Fair Trial in Africa. Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, adopted by the African Commission on Human and Peoples’ Rights in 2001. These expand upon and strengthen the fair trial guarantees in the African Charter.

²⁹ Article 9(4) of the ICCPR, Article 17(2)(f) of the Convention on Enforced Disappearances, Section M(4) and (5) of the Principles on Fair Trial in Africa

³⁰ Constitution of the Federal Republic of Nigeria 1999 as amended http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm#Chapter_4, accessed 4 December 2021

Section 36 of the Constitution guarantees that every person charged with a criminal offence shall be presumed innocent until proved guilty and be entitled to a fair hearing in public within a reasonable time by a court or tribunal. They are also entitled to be informed promptly in the language that they understand and in detail of the nature of the offence; be given adequate time and facilities for the preparation of his defence; defend themselves in person or by legal practitioners of their own choice; examine the witnesses called by the prosecution before any court or tribunal and obtain the attendance and carry out the examination of witnesses to testify on their behalf on the same conditions as those applying to the witnesses called by the prosecution; and have, without payment, the assistance of an interpreter if they cannot understand the language used at the trial of the offence.

Nigeria's Constitution, together with the Administration of Criminal Justice Act (ACJA) 2015, prohibit torture. On 29 December 2017, the Nigerian government passed the Anti-Torture Act.³¹ Section 9 of the act states that: "A person who contravenes section 2 of this Act commits an offence and is liable on Penalties. conviction to imprisonment for a term not exceeding 25 years".³²

4.2.2 ADDITIONAL POWERS GRANTED TO SECURITY AGENCIES

The Boko Haram conflict has prompted the Nigerian authorities to grant additional powers to the security forces, primarily through the Terrorism (Prevention) Act, as amended in 2013. This act gives much broader powers to arrest and detain people than allowed under international human rights law. It has undermined the rights to prompt access to a lawyer, to be brought before a court and to be promptly charged.³³

The extremely broad and vague Terrorism Act permits the relevant authorities to hold someone in custody for a period not exceeding 48 hours from arrest without having access to any person other than their "medical doctor and legal counsel of the detaining agency" (Article 28).³⁴

³¹ The act defined torture as "act by which pain or suffering, whether physical or mental, is intentionally inflicted on a person (a) obtain information or a confession from him or a third person; (A) punish him for an act he or a third person has committed or is suspected of having committed; or (c) intimidate or coerce him or a third person for any reason based on discrimination of any kind. when such pain or suffering is inflicted by oral the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity provided that it does not include pain or suffering in compliance with lawful sanctions. (2) For the purpose of this Act, torture includes— (a) physical torture, which refers to such cruel, inhuman or degrading treatment which causes pain, exhaustion, disability or dysfunction of one or more parts of the body, such as— (/) systematic beatings, head-bangings, punching, kicking, striking with rifle butts and jumping on the stomach, (//) food deprivation or forcible feeding with spoiled food, animal or human excreta or other food not normally eaten,

³² Section 9, Anti-Torture Act 2019. <http://placng.org/wp/wp-content/uploads/2018/01/Anti-Torture-Act-2017.pdf>

³³ <https://placng.org/i/wp-content/uploads/2019/12/Terrorism-Prevention-Amendment-Act-2013.pdf>

³⁴ <http://www.icnl.org/research/library/files/Nigeria/tpa2011.pdf>

The Terrorism prevention act also provides that a court may grant an order for the detention of a suspect without charge for 90 days (Article 27.1)³⁵ which can be extended until “the conclusion of investigation and prosecution”, which would allow indefinite detention, contrary to Nigeria’s obligations under international human rights law. The act does not make exceptions for children.

4.3 ARBITRARY DETENTION

Arbitrary detention or deprivation of liberty by law enforcing agents is prohibited by international human rights law³⁶. All detention must be authorized by domestic law and comply with international human rights law.³⁷ The International Court of Justice and the UN Human Rights Committee have affirmed that international human rights law applies in times of armed conflict and peacetime. Some (but not all) rights may be modified in their application (derogated from) or limited in situations of armed conflict, but only to the extent strictly required by the exigencies of the particular situation and without discrimination.³⁸ International human rights law and standards guarantee the right to liberty, freedom from arbitrary arrest or detention, and the right to a fair trial. The right to liberty and security of person, the right to a fair trial and the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment are recognized and protected under the African Charter on Human and Peoples’ Rights, which Nigeria ratified in June 1983.³⁹

Similarly, these rights are protected under the International Covenant on Civil and Political Rights, to which Nigeria became a state party in 1993. The right to a fair trial includes the right to be brought before a judge promptly, the right to access to a lawyer; the right to be free from torture and other ill-treatment (including the right to procedural protections against torture); and the right to be presumed innocent unless and until proved guilty. The right to a fair trial includes and depends on the enjoyment of all the other due process rights. These legal provisions should also be enforced to prevent arbitrary detention and torture and safeguard the right to liberty. Being brought promptly before a judge enables the judge to assess whether an arrest is lawful and if pre-trial detention is necessary, as well as providing an opportunity to investigate whether torture has been used. It is the first opportunity for the suspect to challenge the lawfulness of the detention, an ongoing right under the International Covenant on Civil and Political Rights. Other procedural pre-trial rights include recording all arrests and detentions; the recording interviews; access to lawyers, doctors and family; and inspection of detention facilities. Under treaties such as the International Covenant on Civil and Political Rights, states may derogate

³⁵ “The court may, pursuant to an ex-parte application, grant an order for the detention of a suspect under this Act for a period not exceeding 90 days subject to renewal for a similar period until the conclusion of the investigation and prosecution of the matter that led to the arrest and detention is dispensed with.” Article 27.1.

³⁶ 4 Rule 99 of the ICRC

³⁷ See for example *Serdar Mohammed v Minister of Defence* [2014] EWHC 1369 (QB).

³⁸ International Court of Justice, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories*, 9 July 2004, para.104; Human Rights Committee, General Comment 31, para.11.

from some human rights provisions during officially proclaimed states of emergency that “threaten the life of the nation”.⁴⁰ No derogation is permitted from certain obligations of states, including the right to life and the prohibition of arbitrary deprivation of life, and the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. No state of emergency can ever justify the taking of hostages, the imposition of collective punishments, arbitrary deprivations of liberty (including abductions and unacknowledged detentions) or deviations from fundamental principles of a fair trial including the presumption of innocence. Even in states of emergency, victims of human rights violations must have access to an effective remedy. In addition, derogations must not be inconsistent with other human rights obligations. Further, no derogations are possible under the African Charter on Human and Peoples’ Rights.

4.3.1 NIGERIAN LAW ON DETENTION

International human rights law specifically prohibits arbitrary detention. Further, all detentions must comply with national and international human rights law. Detentions by the SSS in several detention facilities in the 36 states of Nigeria and Abuja are lawful under international humanitarian and international human rights law only if they are expressly authorized by domestic Nigerian law and comply with international human rights law. The SSS is empowered by the Nigerian law to detain a suspect for a period of 90 days subject to a court order. This court order must be renewed by the SSS to further detain the suspect.⁴¹ While the Nigerian Constitution protects the right to liberty, subsection 35 (1) allows a person to be deprived of his liberty to the extent that this is to allow them to be brought before a court and this is “reasonably necessary to prevent his committing a criminal offence”. According to subsection 4, such a person must be brought before a court within a reasonable period.

However, subsection 7 removes this protection for individuals reasonably suspected of capital offences. So, while a person may only be arrested and detained under subsection 35 (1) (c) for the purposes of being brought to court, there is no requirement to bring them to court within a reasonable time if they are facing a capital offence. This section does not comply with international human rights law as it allows individuals to be held indefinitely if they are accused of a capital offence. It is also important to note that section 45 of the Nigerian Constitution allows derogation from the right to liberty. However, it does not explain what derogation is permitted and in what circumstances.

Notwithstanding the flaws in section 35 of the Nigerian Constitution, it does not confer legal authority for administrative detention, and there is no such power elsewhere in the Constitution or legislation. Section 35 does not allow purely

⁴⁰ However, these derogations must adhere to the principle of proportionality: they may be taken only “to the extent strictly required by the exigencies of the situation”. This relates among other things to the duration, geographical coverage and material scope of the state of emergency and to the justification of each specific measure of derogation resorted to because of the emergency. Derogating measures must not involve discrimination solely on the grounds of race, colour, sex, language, religion or social origin the extent strictly required by the exigencies of the situation”. This relates among other things to the duration, geographical coverage and material scope of the state of emergency and to the justification of each specific measure of derogation resorted to because of the emergency. Derogating measures must not involve discrimination solely on the grounds of race, colour, sex, language, religion or social origin.

⁴¹ See Terrorism-Prevention (Amendment Act) 2013: <https://placng.org/i/wp-content/uploads/2019/12/Terrorism-Prevention-Amendment-Act-2013.pdf>

administrative detention. It requires that all those arrested and detained must be held with the intention of being brought before court in connection with a criminal offence. The Terrorism (Prevention) Act (as amended) does allow extended detention of individuals suspected of involvement in terrorism. However, the Act does not allow the administrative detention of individuals without reasonable suspicion and oversight by the courts. Prolonged pre-trial detention of young men suspected to have links with the IPOB, Niger Delta Avengers, Ilana Omo Oodua, a group agitating for a separate Yoruba nation etc. cannot be held to be authorized under the Act as the procedures set out in the Act have not been followed,

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5. UNLAWFUL AND ARBITRARY ARREST AND PROLONGED DETENTION OF SUSPECTS

Everyone has the right to personal liberty. An arrest or detention is permissible only if it is carried out for reasons that are established by law and is not arbitrary. Arrests and detentions must also be carried out in a manner that is set out within the law and by people authorized by law; and must be guided by a legitimate law enforcement objective; necessity, proportionality and non-discrimination.⁴²

Everyone arrested or detained in connection with a criminal charge must be brought promptly before a judge or other judicial officer so that their rights can be protected. The judge must rule on the lawfulness of the arrest or detention and on whether the detainee should be released or detained pending trial. There is a presumption of interim release pending trial. The state bears the burden of proving that the initial arrest or detention was lawful and that continuing detention if requested, is necessary and proportionate.⁴³

⁴² [Microsoft Word - CERD.GC.31. English.doc \(ohchr.org\)](#)
[European Commission against Racism and Intolerance \(ECRI\) - Homepage \(coe.int\)](#)

⁴³ UN General Assembly resolution 65/205, §20); Human Rights Council resolution 15/18, §4(c); Commission on Human Rights resolution 2005/27,

Judicial oversight of detention serves to safeguard the right to liberty and the presumption of innocence. It also aims to prevent human rights violations, including torture and other ill-treatment, arbitrary detention and enforced disappearance. It ensures that detainees are not exclusively at the mercy of the authorities detaining them.

The purposes of bringing the detainee promptly before a judge include assessing whether sufficient legal reasons exist for the arrest or detention, and to order release if not; to safeguard the well-being of the detainee; to prevent violations of the detainee's rights; and if the initial detention or arrest was lawful, to assess whether detention pending trial is necessary and proportionate.

The state has an obligation to ensure that people arrested or detained are brought before a court promptly, regardless of whether a detainee challenges their detention. Problems affecting the organization of the criminal justice system are never excuses for non-compliance with the requirement of promptness.

Among the safeguards under the Nigerian constitution, for example, are the right to be brought before a court within a reasonable time.⁴⁴ This is stipulated as 24 or 48 hours for non-capital offences depending on the proximity of the court.⁴⁵

In Nigeria, however, suspects detained by the SSS are detained without being promptly brought to court, if at all; they can be arraigned but then held without charge for extended periods; and the SSS has disregarded court orders for suspects to be released on bail or charged, or else only complied after undue delay.

5.1 ARREST WITHOUT REASONABLE SUSPICION

Arbitrary arrests Arbitrary arrests are prohibited under international standards as they violate the right to liberty. An arrest or detention is arbitrary when there is no legal basis for the arrest in domestic law, the arrest is not made following the procedures established in law. Arrest and detention can be lawful under domestic legislation but may still be arbitrary if the law is vague or overbroad or incompatible with other human rights such as the freedom of expression or if the arrest or detention is unjust, inappropriate, unreasonable or unnecessary.

Amnesty International has received reports of people being detained or held by the SSS simply through their association with a suspect rather than because of any specific reasonable suspicion of their involvement in any alleged criminal activity.

⁴⁴ Nigerian Constitution states that "Any person who is arrested or detained in accordance with subsection (1) (c) of this section shall be brought before a court of law within a reasonable time, and if he is not tried with a period of-(a) two months from the date of his arrest and detention in the case of a person who is in custody or is not entitled to bail; or (b) three months from the date of his arrest or detention in the case of a person who has been released on bail, he shall (without prejudice to any further proceedings that may be brought against him) be released either unconditionally or upon such conditions as are reasonably necessary to ensure that he appears for trial at a later date." See Section 35 (4) of the 1999 Constitution

⁴⁵ Section 35(4) of the Constitution. In capital cases, suspects may be detained by the police for longer than 48 hours before being brought before a court of law (Section 35(7)). However, defendants must still be brought before a court within a reasonable time.

Many of the victims remain in detention, while some were released without being charged for any offence.

CASE OF EMEKA NGORNADI

Emeka Richmond Ngornadi, a 42-years-old trader, was arrested on his way to Anambra from Lagos on 10 April 2021 for allegedly sharing and “liking” Facebook posts in support of the Indigenous People of Biafra (IPOB). The SSS accused him of being an IPOB member and openly expressing support for Biafra agitators and critics of abuses by security forces in south-east Nigeria. His lawyer told Amnesty International that the SSS has been trailing Ngornadi for two years. He was travelling from Lagos to Anambra to deliver baby items and goods he had bought for his pregnant wife when he was arrested at Ogere, along Ijebu Ode road in Ogun state. Since his arrest, the SSS denied Ngornadi access to his family and lawyer.⁴⁶ On 5 June 2021, nearly two months after his arrest, the SSS approached the Abuja Federal high court with an *ex parte* motion seeking his detention. The court granted the SSS permission to detain him for 90 days.⁴⁷

His family was unaware that Ngornadi was in detention until July 2021, when a former SSS detainee who shared the same cell with him in the SSS detention facility in Abuja called the family to inform them about his whereabouts. Amnesty International interviewed three former detainees of the SSS who were detained for 25 days in SSS detention facility in Abuja with Ngornadi. According to them, Ngornadi was initially held for one month in a SSS cell in Lagos and later transferred to Abuja, where he reportedly has been subjected to torture, including beating, hanging on a rope, denial of food and sleep to force him to identify himself as a member of the Independent People of Biafra (IPOB). The former detainee said that he has a damaged ear due to several slaps on his ear, developed rashes and patches all over his body and had suffered a protracted illness believed to be typhoid fever and malaria. He was said to be constantly worried about his family and pregnant wife. Amnesty International learnt that Ngornadi was not informed about his offence during his arrest and was not allowed access to his family and lawyer.⁴⁸

His family told Amnesty International that Ngornadi is an ulcer patient who requires close medical attention. According to her, he is still unaware that his wife lost her baby due to constant worry over his whereabouts.⁴⁹

On 1 September, his lawyer filed a fundamental right suit at an Abuja high court asking for his release. The SSS, in a counter-affidavit on 16 November 2021, said Emeka is being held for being a member of IPOB and terrorism financing and that he has been transferred to a military facility in Wawa, Niger state.⁵⁰ Emeka remains in detention at the end of November 2021.

THE CASE OF USMAN TANKO

⁴⁶ Amnesty International Interview with his Lawyer, 22 August 2021

⁴⁷ Suit No FHC/ABJ/CS/447/2021

⁴⁸ Amnesty International interview with former SSS detainees, 20 August 2020

⁴⁹ Amnesty International telephone interview 3 October 2021

⁵⁰ Court document dated 16 November 2021 in Amnesty International file

Usman Tanko, a 17-year-old university student, was arrested in his school hostel in Ilorin, Kwara state, on 28 January 2016 by three men who told him they were from the school authority. They handcuffed him and told him to cooperate with them, or he would be killed.

They took him to the SSS command in Ilorin, Kwara state, where he was kept in a dark solitary cell for two days. His parents learnt of his arrest but could not reach him. The family said they were advised by neighbour not to get a lawyer as it would complicate his case and delay his release, but after waiting for one year, they eventually hired a lawyer. He told amnesty International that he was driven to Abuja while in handcuff about two weeks after his arrest where he was again detained at the SSS detention facility. During his interrogation, they accused him of chatting with ISIS militants on social media. He denied the charges. SSS officials repeatedly threatened him while in detention and on one occasion he was slapped by his interrogator. He was also put in chains for the first three weeks of his detention in Abuja.

He described his cell as very cold with no toilet facilities. Inmates were allowed to take their bath once in three months.

Usman was released on 17 March 2017 without charge, after 14 months in SSS custody. Throughout his detention, he was not given access to his lawyer or family member or doctor of his choice. He told Amnesty International that he went to another university to restart his education as his course mates had graduated from his school.

International standards are clear in requiring the presence of a lawyer with defendants.⁵¹ The right to a lawyer starts at the moment of arrest and applies even if the defendant decides to remain silent.⁵² The ban on questioning children under 18 years old without lawyers is absolute.⁵³ International standards also require that detainees are provided with adequate opportunities, time, and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in complete confidentiality.⁵⁴ The UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while

⁵¹ Article 17(2)(d) of the ICCPR; Article 37(d) of the Convention on the Rights of the Child (CRC); Principle 1 of the UN Basic Principles on the Role of Lawyers; Principle 17 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; Principle 3 and Guideline 4 of the UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems; Guideline 20(c) of the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (Robben Island Guidelines); Sections A(2)(f) and M(2)(f) of the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa.

⁵² UN Human Rights Council, Resolution 13/19, Torture and other cruel, inhuman or degrading treatment or punishment: the role and responsibility of judges, prosecutors and lawyers, UN Doc. A/HRC/13/L.19, para. 6; HRC, Concluding Observations: Japan, UN Doc. CCPR/C/JPN/CO/5 (2008), para. 18; HRC, Concluding Observations: Netherlands, UN Doc. CCPR/C/NLD/CO/4 (2009), para. 11.

⁵³ Guidelines 3 and 10 of the UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems.

⁵⁴ 1 Article 16(3) of the Arab Charter on Human Rights (ACHR); Principle 8 of the UN Basic Principles on the Role of Lawyers; Principles 7 and 12 and Guidelines 3, 4 and 5 of the UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems.

countering terrorism found that: “giving access to case files or providing the exact content of the charges only during the first session in trial to lawyers defending terrorist suspects before military or emergency courts renders illusory the right of the accused to an adequate defence.”⁵⁵

THE CASE OF DANJUMA UMAR, GAMBO HASSAN AND BASHIR FAUD

Danjuma Umar, from Gombe, travelled by bus to Jalingo in Taraba state on 22 April 2014 for a business transaction when he was arrested at a checkpoint in Numan by soldiers for filming them with his phone camera as they were beating up some people on the street.⁵⁶ Danjuma Umar informed the soldiers during interrogation that he intended to stay with his uncle, Bashir Faud, and a friend of his father, Gambo Hassan, in Jalingo. The next day, soldiers arrested these two men from their homes in Jalingo, which were also searched. While Danjuma Umar’s detention appears to have been solely because he was filming the military, the fact that he had been planning to stay with two acquaintances appears to be the only reason for their arrest.

Gambo Hassan and Bashir Faud were initially held in military detention at Yola, then Jos, and finally Abuja. During this time, their family had access to them. However, two months later, on 24 June, they were transferred to the custody of the SSS in Abuja and held incommunicado and without charge. They were later transferred to an unknown detention facility, where they reported being beaten with a plank of wood.

On 27 June 2014, the lawyer of Gambo Hassan and Bashir Faud wrote to the SSS requesting that they be charged or released. Having received no response, he then, on 3 July 2014, filed a request with the Federal High Court in Abuja for the suspects to be produced in court and for their release or bail.⁵⁷

Eight months later, on 16 March 2015, the Federal High Court found that their continued detention without being brought to court to face criminal charges (arraignment) was unlawful and unconstitutional, violating the right to personal liberty under Section 35 of the Constitution, and ordered the two men be released on bail. The court also ordered that Gambo Hassan and Bashir Faud be paid compensation of N300,000 (approximately US\$ 833) each.⁵⁸

The two men were not released promptly, however, and on 17 April 2015, the Federal High Court served a notice of contempt on the SSS, with the case referred to the Chief Justice. Gambo Hassan and Bashir Faud were eventually released on 4 August that year, more than a year after their arrest. They are still waiting for compensation.⁵⁹

⁵⁵ See Human rights impact of policies and practices aimed at preventing and countering violent extremism: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/045/67/PDF/G2004567.pdf?OpenElement>

⁵⁶ Amnesty International phone interview 8 December 2015.

⁵⁷ The suit was No. FCT/HC/CV/1959/2014.

⁵⁸ AI has a copy of this court judgment.

⁵⁹ Amnesty International intervened the family on four different occasions

Danjuma Umar, however, was not released. Danjuma Umar's lawyer filed a Fundamental right enforcement case on his behalf on the ground that his continued detention without trial is a violation of his rights at the Abuja High Court in September 2016. The SSS raised an objection saying that the court had no jurisdiction to hear the case, as federal institutions could only be sued in a federal court. The court agreed with them. Danjuma Umar was eventually released in August 2018, shortly after the appointment of a new head of the SSS.⁶⁰ He had been in detention for four years and was never charged for any offence.

Amnesty International has also documented five other cases, like Danjuma Umar above, when suspects have been arrested without reasonable suspicion after taking photos or making a phone call at checkpoints.

THE CASE OF JAMAL MUSA

Jamal Musa, a 24 year old student, was arrested at a military checkpoint in Rigasa neighbourhood, Kaduna, detained by the army at around 10 or 11pm on 25 May 2014 after soldiers reportedly noticed him 'nervously' ending a phone call near their checkpoint. His family said witnesses at the scene of his arrest and informed them that he was beaten severely by the soldiers accused of spying and took him to military barracks in Kaduna where he has been detained for several weeks.⁶¹

A lawyer who Musa's Family engaged told Amnesty International that he was subjected to several forms of torture and ill-treatment while in military custody, including beating and starvation. Amnesty International was told that the military alleged that when they searched his (Musa) phone, they found numbers of people on their wanted list. Amnesty International learnt that on 6 June 2014 Jamal Musa was forced by the soldiers detaining him to sign a confession stating that he was a member of Boko Haram, that one of his tasks had been to conduct surveillance in preparation for attacks, and that he had tried to place an improvised explosive device at the central market in Kaduna, but this failed to explode.⁶²

On 21 July 2014, Jamal Musa was transferred from the military to SSS custody for further investigation. Two days later, the SSS arraigned him in court and accused him of terrorism. He was not brought to court, and his lawyers were not informed about the charges against him. The Chief Magistrate of Kaduna remanded Jamal Musa into the SSS's custody until 28 August 2014, and on that date, he was remanded again until 30 September.⁶³ His lawyer told Amnesty International that Jamal Musa has never been produced before the high court, not allowed to see his lawyer or family members.⁶⁴ When his lawyer went to the magistrate's court on 28 October 2015, for example, the magistrate still issued the detention warrant even though Jamal Musa was not present.

On 1 August 2014, Jamal Musa's lawyer wrote to the General Officer Commanding (GOC) of 1 Division, Kaduna, requesting bail. Receiving no response, the lawyer then, on 17 September 2014, submitted a motion for the enforcement of Jamal

⁶⁰ Amnesty International phone interview. 2 August 2019

⁶¹ Amnesty International telephone interview, 4 December 2016

⁶² Amnesty International telephone interview 6 December 2016

⁶³ Amnesty International phone interview with Jamal's Lawyer. 2 August 2019

⁶⁴ Amnesty International Interview, Kaduna 5 October 2016

Musa's fundamental human rights under sections 35, 36 and 46 of the Nigerian Constitution, requesting bail, a declaration of unlawful detention and compensation. The suit was filed against the GOC of 1 Division, Kaduna, Kaduna state; the Commandant of the Nigerian Defence Academy in Kaduna, Kaduna state; and the Director of the SSS in Kaduna, Kaduna state.⁶⁵

The respondents replied in October 2014, with the army confirming Jamal Musa's transfer to SSS custody and the Nigerian Defence Academy stating that they were not detaining him. The SSS confirmed that he was in their custody, with an investigation ongoing into him belonging to a terrorist organization and aiding the commission of an offence of terrorism, both offences under the Terrorism Act. On 16 December 2014, the Kaduna Judicial Division of the Federal High Court ruled that Jamal Musa's detention was lawful and dismissed the motion to enforce fundamental human rights.⁶⁶

At the time of writing, seven years after his arrest, Jamal Musa remains in incommunicado detention in SSS custody, without access to his family or lawyer and without charge or trial.⁶⁷

THE CASE OF AZUKA

Azuka Ebuka, a 42-year-old artisan was arrested with four other men at about 3 pm on 1 November 2018 in a hotel in Rumuola area of Port Harcourt where he had gone to see a visiting friend.⁶⁸ He told Amnesty international that he was drinking in the hotel lobby with four other men when five armed men came in and ordered them to lie down on the floor or risk being shot. Without introducing themselves or their mission, the armed men proceeded to tie up Azuka and his friends with robes and belts. As they were marched outside the hotel, Azuka noticed that the hotel was surrounded by armed men in black clothes. Azuka and his friends were dumped inside the boot of a vehicle and taken away to the SSS detention facility in Port Harcourt. At the SSS office, they were brought out and flogged with sticks for about an hour. They were not told why they were arrested and not allowed to contact their lawyers or family members. Their phones and other belongings were seized before they were taken to what appeared to be an underground cell.

After three days, the five men were brought out for interrogation. They were accused of hijacking a shipping vessel and robbing someone without providing the victim's identity or where the incident took place,—a charge they denied.

Azuka said they were tortured daily while in detention, including being handcuffed to a door protector for hours and repeatedly beaten with a machete on his back. Their lawyer and family members who came to the SSS office to inquire about their whereabouts were told they were not in the SSS custody. On several occasions, they were denied food and access to Medicare. When Amnesty International met Azuka and two men arrested with him in May 2019, all of them had scares in different parts of their bodies, indicating that they were tortured.

⁶⁵ Jamal Musa's enforcement of fundamental rights motion is No. FHC/KD/CC/68/2014, submitted on 17 September 2014 to the Kaduna District Division of the Federal High Court.

⁶⁶ FHC/KD/CS/68/2014

⁶⁷ Amnesty International telephone interview 2 July 2019

⁶⁸ Amnesty International Interview, Port Harcourt 9, May 2019

On the 28 November 2018, the five men were handcuffed and taken to a Port Harcourt magistrate court without the knowledge of their lawyers or family members. They were charged with terrorism, and although they pleaded not guilty, they were remanded in Harcourt prison.

Azuka was finally released in December 2018 after the SSS prosecutor failed to show up in court on three different occasions. To date, the SSS has refused to return the properties, including cars, phones and cash seized from the men.⁶⁹

5.1 SUSPECTS NOT INFORMED OF THE REASONS FOR THEIR ARREST

Amnesty international has documented at least 52 cases where SSS officers arrested people and detained them without informing them about their alleged crime. Article 9 of the International Covenant on Civil and Political Rights requires that all arrested persons should be informed immediately of the reasons for their arrest, promptly informed of the charges against them and brought before a judge. Principle 16(1) of the Body of Principles on Detention requires that notification of arrest and any transfer of a detainee be provided to the family or other appropriate persons. The UN Human Rights Committee has also reiterated the importance of such notification.⁷⁰ The Nigerian constitution and other laws also provide several similar safeguards for suspects, including:

- The right to be informed about the facts and grounds of the arrest or detention.⁷¹
- The obligation to take an arrested person within a reasonable time to a police station.⁷²
- The obligation to report persons arrested without warrant to the nearest magistrate.⁷³
- The right to be brought before a court within a reasonable time. This is stipulated as 24 or 48 hours for non-capital offences depending on the proximity of the court.⁷⁴
- The right to remain silent until consultation with a legal practitioner.⁷⁵
- The rights to have access to a legal representative or person of own choice and provide reasonable facilities for obtaining legal advice.⁷⁶

⁶⁹ Amnesty International Interview, Port Harcourt 9, May 2019

⁷⁰ UN Human Rights Committee, CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment), March 10, 1992, at 11

⁷¹ Section 35(3) of the Constitution of the Federal Republic of Nigeria (1999).

⁷² Code of Criminal Procedure, section 9.

⁷³ Criminal Code, section 20.

⁷⁴ Section 35(4) of the Constitution. In capital cases, suspects may be detained by the police for longer than 48 hours before being brought before a court of law (Section 35(7)). However, defendants must still be brought before a court within a reasonable time

⁷⁵ Section 35(2) of the Constitution.

⁷⁶ Code of Criminal Procedure, section 9.

Despite the above provisions in Nigeria's laws and international human rights law and standards, the SSS routinely engages in arbitrary arrest and detention of suspects. Amnesty International interviewed 15 people who said they were never told their offence until their release. Four men told Amnesty that they only got to know their offence when they were arraigned in court.

A 33-year-old man who was arrested in Nnewi, Anambra state August 2016 and held incommunicado for two weeks at the SSS detention facility in Awka told Amnesty international that he spent two weeks in detention without being told his offence.⁷⁷

Activists Larry Emmanuel, Anene Victor Udoka, Samuel Gabriel, Henry Nwodo, and Ben Mannaseh were arrested and arbitrarily detained by the SSS on 4 July 2021 after attending a church service in Abuja, the Nigerian capital. The activists said they were arrested and beaten by the Church's security unit for wearing #BuhariMustGo T-shirts⁷⁸ and later handed over to the SSS who further detained them. The activists told Amnesty International that they were not told their specific offence but rather subjected to torture and ill-treatment while in detention. They said they were denied access to their lawyer and family members and were routinely subjected to beatings and verbal abuse.

On 26 July, a Federal High Court issued an order that the activist be released on bail. However, the SSS still kept them in detention until 29 July 2021, when they arraigned them before a magistrate court on charges of 'constituting themselves as vagabonds' to disturb public peace. The court again granted them bail. On 3 August, the SSS released them after they perfected their bail but confiscating their T-shirts. The case is still ongoing.

5.2 SUSPECTS ARE NOT BROUGHT PROMPTLY TO COURT

Amnesty International research shows that most detainees in SSS custody are subjected to long periods of detention without trial. Often no one, including their lawyers, has access to those in SSS detention; sometimes, families are not aware that their relatives are in SSS custody, and in other cases, they are afraid to visit them. About eighty percent of the former SSS detainees interviewed by Amnesty International said they were never taken to court. About ten percent said they were taken to court after several months of detention. Ninety eight percent of them said they were not given access to their lawyers and family members during their detention. A lawyer told Amnesty international that it is usually very difficult to access detainees in SSS detention. The lawyer said that on three occasions, he was asked to write a letter requesting to visit his clients, but he never received any response⁷⁹

⁷⁷ ⁷⁷ Amnesty International interview, Enugu, 30 March 2017

⁷⁸ The shirts were in reference to President Buhari and were worn by the activists in protest against bad governance in Nigeria

⁷⁹ Amnesty International Interview, 3 February 2020

CASE OF DANIEL EZEKIEL

Daniel Ezekiel, a 41 years old activist was arrested on 3 August 2016 by security officials for suspected links with militants in the Niger Delta and detained for 15 months at the SSS detention facility in Abuja. He told Amnesty International that officers belonging to the Defense Intelligence Agencies (DIA) arrested him in a hospital in Wari, Delta state, handcuffed and blindfolded him and flew him to Abuja the next day, where he was again detained in a cell. He was interrogated by three officers who accused him of being a member of Niger Delta Avengers, a militant group in the Niger Delta region. When he denied the accusation, he was threatened with execution and returned to the cell.⁸⁰

He was detained for weeks by the DIA with no access to his family and lawyer before being transferred to the SSS detention facility in Abuja. Daniel said he was kept in a dirty SSS cell with dozens of other young men, many of them accused of having a link with a former militant leader. Some of the people he met have been detained for over two years, and many of them have bullets wound and other injuries sustained during interrogation at the SSS. He told Amnesty International that throughout his detention, he was never brought before a judge but rather subjected to several forms of torture and inhuman and degrading treatment:

“On getting to SSS office, I was given a cardboard box to sleep for three days. My hands were chained to my back. On the third day, I was assigned a case officer. He removed his name tag the first day, brought in two other officers, and gave me a thorough beating with stick and horsewhip. They brought a machine and put it in my armpit to electrocute me. They said it was done to put me ‘‘ in the right mood’’. They hung me upside down and started beating me. Saliva started gushing out of my mouth and nose. One of them told them to stop. They asked me if I had eaten, said no. They brought food, but I declined to eat but asked for water. They gave me water and started interrogating me again.”

They brought ice blocks and rubbed them in my private parts. After a while, they brought a gadget that radiated heat and placed it on my private part. It was very painful.... I passed out shortly, I was tortured for about 5 hours. ... I woke up the following day at the clinic. At the clinic I saw about eighteen detainees. All of them were victims of torture.”

Daniel was taken back to the cell, where he spent a total of 480 days. He said on one occasion when he challenged a SSS officer about his ill-treatment, he retorted: “Listen, young man, the SSS is above the law of the land. The SSS only listens to Mr. president. You people are just wasting your time.”⁸¹

While in detention, he was denied access to his lawyer and family members. His lawyer told Amnesty international that he wrote to the SSS on three occasions demanding access to Daniel and over 200 other youths arrested from different parts of Niger Delta on suspicions of having links with militants but received no response.⁸²

In September 2016, his lawyer filed a suit for the enforcement of his fundamental rights. The court ordered that he should be brought to court, but the SSS ignored the court order.⁸³

On 25 November 2017, Daniel was released, after 15 months of detention, shortly after his case was reviewed by a panel set up by the SSS. He was never charged for

⁸⁰ Amnesty International interview. 3 September 2019

⁸¹ Amnesty International interview. 3 September 2019

⁸² Amnesty International interview, Warri, 3 February 2020

⁸³ Amnesty international sighted the court document

any offence. He told Amnesty International that he received phone calls from SSS officers threatening to rearrest him for speaking out about his experience in detention on several occasions after his release.⁸⁴

5.3 IRREGULARITIES SURROUNDING ARRESTS

Article 9(1) of the ICCPR provides that “No one shall be subjected to arbitrary arrest or detention.” International human rights law and standards require that arrests should only be made by authorized officials on proper legal grounds.⁸⁵ A person, at the moment of arrest and commencement of detention or imprisonment, should be given information on and an explanation of his rights and how to avail themselves of such rights,⁸⁶ including the right to notify family members and the right of access to a lawyer and a doctor, in a language they understand. In addition, law enforcement officers are required to keep a record of the reasons for the arrest, the time of arrest and appearance before a judicial authority, the identity of the law enforcement officials, and precise information on the place of custody. The Nigerian Constitution and Nigeria laws both provide for similar protection.⁸⁷

In reality, these safeguards are not implemented. Survivors of SSS torture and ill-treatment told Amnesty International that most of the persons who arrested them did not identify themselves to them or their family members. The arresting officers didn't inform the suspects of any charges against them or their rights under the law. Some of the victims recalled being beaten, threatened at gunpoint, and handcuffed before being put in unmarked vehicles. Some were blindfolded and not told where they were being taken. Others were dragged in full view of neighbours and paraded as criminal suspects. Violations of these safeguards upon arrest often lay the ground for and facilitate later torture or other ill-treatment. In some cases, documented by Amnesty International, irregularities during an arrest have made it possible for enforced disappearance and extrajudicial execution to take place.

MICHAEL OMOLAYO

Michael Imoleayo, a 31-year-old computer programmer, was arrested in his home in Abuja by the SSS on 12 November 2020 for participating in a nationwide protest calling for an end to police violence in Nigeria. He told Amnesty International that about 20 SSS operatives broke into his house at about 1 am to arrest him.

“About 20 SSS operatives came to arrest me in the middle of the night. They parked their vehicles several streets away from mine and proceeded to disconnect the

⁸⁴ Amnesty International interview. 3 September 2019

⁸⁵ Article 9 International Covenant on Civil and Political Rights:
<https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

⁸⁶ Ibid. Article 9(2)

⁸⁷ Section 35(2) of the Constitution

electricity connection in my building. They did not introduce themselves. They broke the window glass, tore the window net in my house and pointed a gun at me. I thought they were armed robbers. They ordered me to open my door. They told me they were soldiers and that they were here to discuss. Eventually, I opened the door. They marched into my seating room and asked for my phone. They said they would take me away and ask me a few questions outside. They took my laptop along with them. They locked my mother, wife and child inside a room and left with me. They took me in their truck and blindfolded me. When we got to the SSS office, they handed me over to officers on duty, who handcuffed me to the cabinet steel and collected everything with me including my shoes. I slept in the passage till the morning handcuffed and chained.”

Michael was detained for 41 days without access to his lawyer and family. His wife paid a lawyer who went to several police stations to look for him. On 18 December 2020, he was arraigned in a magistrate court in Abuja and charged with conspiring with others to disturb public peace and disturbing public peace. He pleaded not guilty and was granted bail. His trial is ongoing.

Chinedu Obowo told Amnesty International of his similar experience. He was 32 when he was arrested in 2019 in Port Harcourt, accused of being a member of the Indigenous People of Biafra (IPOB), a separatist group fighting for an independent state of Biafra in South-Eastern Nigeria. Chinedu said that when he was arrested, two SSS officers kicked him on the back before four men handcuffed him and put him in a car. Inside the vehicle, Chinedu said, the men hit him in the ribs and stomach about eight or nine times, using their hands and gun butts. He was taken to a SSS office. Once there: “They started asking about IPOB members and our leaders. When I refused to speak, they hit the soles of each of my feet, about ten times each with some hard object, including a cutlass. They continued to beat me with the butt of their gun. They kicked me in the stomach and ribs. They punched me on the face and sides of my stomach. They blindfolded me and hit me repeatedly on the head. Since my face was covered, I could not see how many were there.” During his arrest, Chinedu was not told about his offence or where he was taken to, and was not granted access to his lawyer. Chinedu also showed Amnesty International researchers his hands which were still scarred due, he said, to his hands being tightly handcuffed behind his back for many days. Chinedu said he was scared to file a complaint: “I am hesitant to file a complaint since I am still inside the country where they can reach me. They have all my details, including that of my family. The SSS can do a lot to me... I am afraid that if I speak out, they can hurt or kill me. I saw them kill someone in the cell. The SSS made me sign a document that I will not file a complaint in court nor tell anyone about my experience in detention.”⁸⁸

5.4 SUSPECTS HELD WITHOUT CHARGE FOR EXTENDED PERIODS

⁸⁸ Amnesty International Interview, Abuja. 10 July 2019

In some cases, suspects have been held without charge for extended periods. Amnesty International spoke to 15 former detainees detained for at least one year and two lawyers who represent detainees currently in SSS custody. In March 2019, Amnesty International received a list of 21 young men from Niger Delta region, held in SSS detention. The detainees are between the ages of 22 to 40 and were arrested between March to November 2016. A lawyer familiar with their case told Amnesty international that they were suspected of belonging to the Niger Delta Avengers, a militant group operating in the Niger Delta region.⁸⁹ They have not been allowed access to their lawyers and family members since their arrest. Amnesty International reached out to 12 family members of the detainees who confirmed their detention by the SSS. As of November 2021, five years after their arrest, they remain in SSS custody, and none of them has been charged for any crime.⁹⁰

⁸⁹ Amnesty International Interview, Warri 16 April 2019

⁹⁰ Amnesty International telephone interview, 15 November 2021

6. ENFORCED DISAPPEARANCES AND INCOMMUNICADO DETENTION

Enforced disappearance is defined at CPED as the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person. Once out of the public eye, individuals subjected to enforced disappearance are at great risk of ill-treatment, torture and even death.⁹¹

Information gathered by Amnesty International through interviewees with victims, lawyers and relatives of victims indicated that at least 230 people between the ages of 24 to 55 were subjected to enforced disappearance by the SSS between January 2014 and November 2021. They were detained for periods ranging between two weeks to 4 years. Following their arrest, they were taken to the nearest SSS detention centre, usually in state capitals and in many cases to the SSS headquarters in Abuja. Some were later transferred to the SSS detention centre in Kainji, Niger state, where they underwent abusive interrogation. In most cases, the judiciary has no access to them and so is unable to inspect them. During their time in detention, their families or lawyers inquired at police stations and SSS offices stations about their whereabouts but were told they were not in custody. In several court documents seen by Amnesty International, the SSS claimed in court that the victims are not in their custody. Section 34 of the Administration of criminal justice act empowers a magistrate to undertake monthly inspection of detention centres within its jurisdiction. Similarly, the National Human Rights Commission is empowered to visit detention centres across Nigeria. However, Amnesty

⁹¹ International Convention for the Protection of All Persons from Enforced Disappearance.
https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-16&chapter=4

International was informed that the SSS does not allow such visits by these statutory bodies.⁹²

Amnesty International has consistently received reports that families have not been informed of the identity of the arresting authority, the location of their relatives or the reason for their arrest. Families report that they fail to obtain information from SSS offices and are even threatened when seeking details. Their letters are ignored, and they are forced to go to court in an attempt to compel the authorities to confirm the location of the suspects.

The SSS also denies lawyers access to their clients, even when the SSS has acknowledged that they hold the suspect.

Enforced disappearances give rise to a series of violations of the victim's rights and their relatives. Disappearances inflict serious harm on relatives and their right to humane treatment, which constitutes a form of torture and other cruel, inhuman or degrading treatment or punishment. The impact of the disappearance of a loved one is profound and evident. Victims should receive full reparation, which restores – as far as possible – the enjoyment of those rights that have been violated.

The rights of detainees to communicate with the outside world and receive visits are fundamental safeguards against human rights violations, including torture or other ill-treatment and enforced disappearance.⁹³

Detention without access to the outside world – incommunicado detention – facilitates torture and other ill-treatment and enforced disappearance.⁹⁴ Depending on the circumstances, it can itself constitute torture. As the length of incommunicado detention increases, so too does the risk of additional human rights violations. The UN Human Rights Committee and the Committee against Torture have called for provisions to be made against incommunicado detention.⁹⁵

The Nigerian constitution and other domestic laws provide for safeguards against enforced disappearance, including reporting to the nearest magistrate⁹⁶, taking suspects to court within a reasonable time,⁹⁷ and giving them access to a legal representative of their choice or providing one free of charge.⁹⁸

Amnesty International's research shows that most detainees by the SSS are denied access to their family. Some families are left in a desperate situation, hearing that their relative has been detained by the SSS but not able to obtain a response to

⁹² Amnesty International interview with NHRC staff, Lagos Jul 2017

⁹³ Anyone who is arrested, detained or imprisoned has the right to inform, or have the authorities notify, someone in the outside world that they have been taken into custody and where they are being held (CAT General Comment 2, §13).

⁹⁴ Article 17(2)(d) of the Convention on Enforced Disappearance, Rule 26 of the Bangkok Rules, Principle 19 of the Body of Principles, Guidelines 20 and 31 of the Robben Island Guidelines; See Rule 38 of the CoE Rules on remand in custody, Rules 99 and 24 of the European Prison Rules

⁹⁵ UN Doc. CED/C/10/D/II/2013, 1 April 2016, para.10.3

⁹⁶ Criminal Code, section 20.

⁹⁷ Section 35(4) of the Constitution. In capital cases, suspects may be detained by the police for longer than 48 hours before being brought before a court of law (Section 35(7)). However, defendants must still be brought before a court within a reasonable time.

⁹⁸ Code of Criminal Procedure, section 9.

visits or letters to SSS officials, or even a confirmation or denial that they are in custody. Many have to rely solely on their own efforts, as they do not have the financial resources to obtain the assistance of a lawyer or on scraps of information passed on by released prisoners who had been held with their loved ones.

CASE OF FELIX ADIKA

Felix Adika (44), a former member of a militant group in the Niger Delta was arrested in January 2016 after he attended a meeting called by government officials to address several complaints filed by his group about nonpayment of their stipends.⁹⁹ According to his family, in January 2016, Felix Adika's group, comprising former militants staged a peaceful protest in the street of Yenagoa, Bayelsa state, over the withholding of their monthly payments by government officials. They were invited to Abuja by the federal government for negotiation about their outstanding stipends but it was then referred back to Delta state. The family said he travelled to Delta state on 27 February 2016, where he was arrested with 12 of his colleagues by the SSS. The family said they were unaware of his arrest until February 2019 when a former SSS detainee said to them that he saw him at the SSS detention center in Abuja. The family told Amnesty International that his wife travelled to Abuja with others to visit her husband at the SSS office on 24 April 2019. Still, she was simply asked to write an application letter to the Director of SSS, asking for permission to see her husband. She wrote to the SSS director but never received a response. The family also approached the Legal Aid Council(LAC), a government agency responsible for providing free legal services to poor Nigerians, on 25 April 2019 for help, but they were told that they(LAC) would write to the SSS. They did not receive any update from the LAC. The family said they have visited the SSS office in Abuja on five occasions and were never allowed to see Adika.¹⁰⁰ The family approached a lawyer who wrote to the SSS on three occasions demanding his release but received no response.¹⁰¹

In May 2019, the family approached another lawyer in Abuja who filed a fundamental human rights case against the SSS on 7 June 2019, asking the court to declare the continued detention of Felix Adika as unlawful and a violation of his right and asking for his release and compensation¹⁰². In the response filed by the SSS, they claimed that Felix Adika is not in SSS detention and cannot release someone who is not in their detention¹⁰³.

THE CASE OF SALIM MAHMUD

Salim Mahmud, a head teacher, was last seen in the early hours of the morning at Kabusa Junction motor park, Abuja, in a taxi on 15 September 2014. The following day at around 1am, he rang his family from someone else's phone to say that he was at a hospital because he was detained and beaten by the SSS, and that he

⁹⁹ In August 2011 the Nigeria government announced an amnesty program for all militants in the restive Niger delta region. The program involved the return of arms by the militants and their rehabilitation by the government. However, the program has been fraud with corruption allegation with widespread report of embezzlement of stipends meant for the former militants.

¹⁰⁰ Amnesty International telephone interview, 26 August 2021

¹⁰¹ The letters were sent to the SSS between May to December 2019

¹⁰² Felix Adika vs SSS FNC/ab/j/cs/626/201

¹⁰³ Amnesty international interview, Abuja 18 October 2021

received treatment for injuries to his legs. He did not give details about his arrest, injury or location of the hospital. That is the last they have heard of him, despite repeated attempts to obtain information from the SSS. The family does not know why he was arrested or detained by the SSS. However, informally, they were informed by a top security official that he was held by the SSS for a terrorism-related offence.

On 29 September 2014, Salim Mahmud's family wrote to the Director-General of the SSS requesting his release but received no response. His mother has been to the SSS office in Abuja several times and to SSS offices in other Kaduna and Niger states, but has been denied access. In November 2018, the family received a call from someone who said he met Salim in SSS custody in Abuja. Salim Mahmud's family still believe that he is being detained in the Abuja, but the SSS have failed to confirm that he is or has been in their custody. As far as his family are aware, in the seven years since his arrest, he has never been brought to court.¹⁰⁴

A lawyer who has been involved in several interventions for individuals detained by SSS told Amnesty International, that Salim Mahmud case is not unique as there were dozens of other victims, which the SSS has failed to acknowledge. According to him, some detainees were given a different name at the SSS detention. In several instances when the court ordered a detainee's release, the SSS will claim that such individual's name is not in their record.

THE CASE OF AMIR DANLAMI

Amir Danlami, a 25-year-old student, was arrested by three men at about 2am in his home in Zaria, Kaduna state on 26 November 2014. His family described how they asked at that point where he was being taken but were told simply that they would find out - but were still trying a month later to determine his whereabouts.¹⁰⁵

In the first week of January 2015, they informally approached a judge in Kaduna who made inquiries and found out that Amir Danlami was being held in SSS Kaduna. They went to the SSS office there but were denied access to their relative. After two days of visiting and negotiating, the family were told that Amir Danlami had been transferred to SSS Abuja. The family then visited the SSS in Abuja some five times to seek access to Amir, but without success.¹⁰⁶

On 12 January 2017, the family approached the Federal High Court Kaduna seeking to enforce his fundamental human rights. On 7 March 2017, the court ordered the SSS to release Amir Danlami and pay a compensation of N1,050,000 (Approximately €2,915). The SSS ignored the order.¹⁰⁷

As of the time of writing this report, seven years after his arrest and nearly five years after the court order, the family still has not been granted access to Amir Danlami, or received any official news of him, and remained not knowing if he was alive or dead.¹⁰⁸

THE CASE OF FARUQ ISA

Faruq Isa was arrested on 1 February 2012 at his residence in Kaduna by four men who introduced themselves as SSS officers. According to his family, the SSS alleged during his arrest that he is a close friend of Boko Haram's late leader.¹⁰⁹ He

¹⁰⁴ Amnesty International telephone interview 16 June 2019

¹⁰⁵ Amnesty International interview. 2 July 2019

¹⁰⁶ Amnesty International interview. 2 July 2019

¹⁰⁷ Court document in AI File

¹⁰⁸ Amnesty International Telephone Interview. 4 October 2021

was not allowed to contact a lawyer before he was taken away. His family was not told where he was being taken to. Since his arrest, members of his family have not been allowed to see him in custody. His family tried on several occasions between May 2012 and December 2015 to see him at the SSS detention centre in Kaduna but were told that he is not in their custody. His lawyer has also been denied access to him. In May 2013, a man who was previously detained at SSS detention centre in Kaduna told the family that he met him while in detention and that he is being detained on the allegation that he is a friend of a Boko Haram leader. However, in their response, the SSS denied ever arresting Faruq Isa nor holding him in their custody. Almost ten years after his arrest, the family still wait to hear what happened to him. The family received information from a lawyer that Faruq Isa was last seen at the SSS cell in Abuja but is currently held at the military detention centre in Kainji, Niger state.¹¹⁰

THE CASE OF HAMZAH ADAMU

Hamzah Adamu was arrested and detained from his accommodation at the Nigeria Railway Corporation offices in Minna, Niger state, on 17 July 2014. His family went to several police stations and the SSS office in Minna but was told that he is not there. The family said they were told by two people who witnessed his arrest that five men who arrested him showed identification cards indicating that they were officers from the SSS Niger office. In August 2015, a year after his arrest, a former prisoner who said he had been held with Hamzah Adamu in SSS custody told his family that he was held at the SSS Minna premises. His family have approached the SSS in Minna in October 2015 and again in 2016, but were told that he was not held there. They have no official confirmation of his whereabouts, and to their knowledge, he has not been brought to court.¹¹¹

As of the time of this report, Hamza Adamu is yet to be released¹¹²

6.1 FAMILIES AND LAWYERS DENIED ACCESS TO DETAINEES

Families and lawyers have been denied access to their relatives even when the SSS accepts that the suspect is in their custody – and even to the point of disregarding court rulings compelling access. In some cases, lawyers have only been able to see their clients when they are brought from detention for a court hearing – for brief periods and in conditions remote from the necessary time and privacy to properly discuss a case and take instruction.

THE CASE OF ABIRI JONES.

¹⁰⁹ Amnesty International Telephone Interview. 4 October 2021

¹¹⁰ Amnesty International Interview, Abuja 4 May 2019

¹¹¹ Amnesty International phone interview 31 July 2019

¹¹² Amnesty International telephone interview. 15 November 2021

On 21 July 2016, Mr Abiri Jones, a journalist and publisher of Weekly Source newspaper, was arrested by a dozen heavily armed who identified themselves as SSS officers outside his office in Yenagoa, Bayelsa State. His office was thoroughly searched, and his phones and computers were carted away by the SSS officers.¹¹³

Two days after his arrest, on 23 July 2016, the SSS released a press statement alleging Mr Abiri was a militant named General Akotebe Darikoro, operating under the nom-de-guerre, General Kill and Bury, the leader of the Joint Niger Delta Liberation Force, “which has been furthering separatist tendencies in connivance with other criminal gangs in the Niger Delta region”¹¹⁴. However, when his family visited the SSS office in Yenagoa few weeks after his arrest, they denied holding him. In August 2016, Mr Abiri’s lawyer filed a fundamental rights enforcement lawsuit against the SSS, asking the Bayelsa State High Court to declare his arrest and continued detention without trial unlawful, and order the SSS to release him on bail, as well as reopen Weekly Source newspaper’s office. A Bayelsa State high court judge, on 7 September 2016, ordered the SSS to reopen Weekly Source newspaper’s office but refused to order for his release.

All efforts by Abiri Jones Lawyer and family members to see him in SSS custody were rebuffed. Abiri Jones was not allowed access to his lawyers or family members. In June 2018, 23 months after his arrest and detention without trial, a government spokesman, in response to local and international pressure¹¹⁵ admitted that Abiri Jones was held by the SSS but said that Abiri Jones was not a journalist but a criminal who is held for pipeline vandalism and crude theft, including militant activities in the Niger Delta.¹¹⁶

After a long and sustained campaign by local and international human rights groups, the SSS finally arraigned him in court on 27 July 2018, charging him with criminal intimidation.¹¹⁷ He was granted bail on the same day. On 17 September 2018, a magistrate court in Abuja struck out the suit against him, saying it lacked jurisdiction to entertain the case since the offence was committed in Bayelsa state¹¹⁸.

¹¹³ Amnesty International interview, Abuja. 5 November 2019

¹¹⁴ Sahara Reporter, SSS Arrests Jones Abiri On Allegations He’s A Militant.
<http://saharareporters.com/2016/07/23/SSS-arrests-jones-abiri-allegations-hes-militant>

¹¹⁵ <https://www.premiumtimesng.com/news/top-news/275521-group-demands-release-of-journalist-detained-by-nigerian-govt-for-two-years-without-trial.html>

¹¹⁶ Presidency defends detention of ‘journalist’ without trial:
<https://www.premiumtimesng.com/news/more-news/273360-presidency-defends-detention-of-journalist-without-trial.html>. Accessed 25 June 2019

¹¹⁷ Court document in Amnesty International file

¹¹⁸ <https://cpj.org/2018/09/abuja-court-dismisses-case-against-nigerian-journal/>
<https://cpj.org/2018/09/abuja-court-dismisses-case-against-nigerian-journal/>

Ruling on a case brought by his lawyer, a federal high court in Abuja on 13 September 2018 ruled that his detention without trial constituted a violation of his rights and awarded a sum of 10.5 million naira against the SSS for illegal detention. He was released after almost two years of detention without trial and access to lawyers and family members. Since his release, the SSS has continued to harass him, arresting him on two occasions in early 2019 for speaking out about his experience in detention. On 22 May 2019, Abiri Jones was again arrested by the SSS and arraigned in court for “terrorism, economic sabotage, and fraud”. He was granted bail on 25 October 2019. His case is still ongoing.¹¹⁹

THE CASE OF NABILAH TAHIR

Nabilah Tahir, a 57-year-old food seller, was arrested at about 2am on 19 November 2014 at his home in Zaria, Kaduna state, by three SSS officers. His wife told Amnesty International that the men detaining her husband identified themselves as SSS officers and that they were only taking him to help identify someone else and that she should not worry.¹²⁰ She believed they were from the SSS as this was written on their uniform and identity card but had no idea where her husband had been taken.

When he did not return, she went to SSS Kaduna office about two weeks after his arrest but was not allowed to see him. She was told that Tahir is not in their custody. A few weeks after his arrest, she wrote a letter to the SSS, addressed to the head of SSS, Kaduna state command on 23 December requesting access to see her husband but received no response. Nabilah Tahir’s lawyer also wrote to the SSS Director in Kaduna asking access on 19 February 2015, but likewise received no response.¹²¹

On 21 April 2015, the lawyer filed a motion with the Federal High Court in the Kaduna Judicial Division to enforce his client’s fundamental human rights.¹²² The motion sought bail, compensation, and a declaration that the arrest and continued detention were unlawful. As part of the motion, Nabilah Tahir’s wife stated that she had still been denied access to him.

On 13 May 2015 the SSS filed a reply to this enforcement motion.¹²³ Nabilah Tahir’s lawyer told Amnesty that it was only from this reply that he and the family received confirmation that he had indeed been arrested and detained by the SSS and was being held by SSS Kaduna. SSS response also claimed that Nabilah Tahir had been brought before a court and arraigned by the Magistrates Court Kaduna on 26 November 2014 for the offence of terrorism¹²⁴, allegedly for being one the co-founders of a terrorist organization in 2011. The SSS reply included a confessional statement signed by Nabilah on 27 November 2014.¹²⁵

¹¹⁹ Amnesty international interview. Abuja, 27 October 2019

¹²⁰ Amnesty International telephone interview December 8 2018

¹²¹ Amnesty International telephone interview December 8 2018

¹²² Court Document in Amnesty International file

¹²³ Court document in Amnesty International file

¹²⁴ At that point the magistrate required that Nabiri be produced again by 7 January 2015.

¹²⁵ Amnesty International telephone interview, 3 December 2021

Nabilah Tahir's family and lawyer have not been able to gain access to him in detention, seeing him only when he was brought to the magistrate's court in 2017. His lawyer did manage to speak to him briefly when he was brought to court in 2017- Nabilah denied writing the confession produced by the SSS – and his wife spoke to him for a few minutes. Still, they were unable to discuss anything of substance as a SSS lawyer was nearby.

As of the time of writing, seven years since his arrest, Nabilah still remains in SSS custody with no access to family and lawyer.¹²⁶

6.2 SOLITARY CONFINEMENT

Amnesty International interviewed at least 15 persons and five lawyers who said they (or their client) were subjected to solitary confinement during their detention by the SSS. Many of the detainees were put in solitary confinement as punishment. A 25-year-old man detained in the SSS facility in Oshogbo in August 2019 for participating in a protest described the effect of his solitary confinement "I spent four days in the cell before I was taken to solitary confinement. I was blindfolded all the time. I did not know when it was morning or night... I requested for a book or a newspaper, but they refused. I was psychosocially devastated".¹²⁷

Amnesty International's research indicates that the SSS employ solitary confinement as a tool to inflict pain and suffering on detainees and thereby punish them. This form of punishment is mostly targeted at activists and people accused of terrorism.

The suffering already inflicted by often unjustified detention is coupled with the pain of total isolation for months or years. To this are added detention conditions such as filthy cells with no clean toilet facilities, poor ventilation, inadequate food and the denial of family visits. Amnesty International has concluded that solitary confinement for such detainees in SSS facilities invariably amounts to cruel, inhuman and degrading treatment or punishment, and sometimes to torture. Solitary confinement also makes detainees more vulnerable to other forms of torture and other ill-treatment by detaining authorities for the purpose of intimidation, reprisal or the extraction of confessions. The isolation experienced by detainees in solitary confinement means that they face challenges to securing witnesses, preserving evidence of abuse, and raising complaints about their treatment in due time, entrenching a climate of impunity.

International and regional human rights standards have consistently called on states to limit their use of solitary confinement, in recognition of the physical and mental harm and suffering it can cause even when imposed for limited periods.¹²⁸ This was

¹²⁶ Amnesty International telephone interview, December 4, 2021

¹²⁷ Amnesty International interview, Abuja 15 October 2020

¹²⁸ See, for instance, Principle 7 of the UN Basic Principles for the Treatment of Prisoners (adopted and proclaimed by UN General Assembly resolution 45/111 of 14 December 1990), which states that efforts to abolish solitary confinement as a punishment, or to restrict its use, should be undertaken and encouraged. Rule 60(5) of the European Prison Rules (adopted by the Council of Europe on 11 January 2006) states that solitary confinement may be imposed as a punishment "only in exceptional cases and for a specified period of time that shall be as

reiterated by the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in a detailed report issued in 2011 in which he called on states to apply solitary confinement “only in exceptional circumstances where its duration must be as short as possible and for a definite term that is properly announced and communicated”.¹²⁹

In December 2015, The UN General Assembly unanimously adopted the revised Standard Minimum Rules for the Treatment of Prisoners, known as the Nelson Mandela Rules.¹³⁰ The rules provided for the first time a clear definition of solitary confinement and set out the restrictions for its imposition under international human rights law and standards: “For the purpose of these rules, solitary confinement shall refer to the confinement of prisoners for 22 hours or more a day without meaningful human contact. Prolonged solitary confinement shall refer to solitary confinement for a time period in excess of 15 consecutive days.”¹³¹ The Nelson Mandela Rules went on to specify the conditions for the use of solitary confinement. These included: “Solitary confinement shall be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and only pursuant to the authorization by a competent authority. It shall not be imposed by virtue of a prisoner’s sentence.”¹³² “In no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment. The following practices, in particular, shall be prohibited: (a) Indefinite solitary confinement; (b) Prolonged solitary confinement...”¹³³

THE CASE OF OKECHUKWU SOCHIMA

Okechukwu Sochima describes how he was arrested together with his male visitor, his landlord and his two children in Port Harcourt by SSS officers on 2 June 2016. He was hooded throughout his two weeks stay in a SSS cell in Port Harcourt. Okechukwu’s legs were chained continuously for the two weeks he stayed in Port Harcourt. He was also denied food and water throughout this period. He was accused of being a member of IPOB.

“They did not allow anybody to visit me all through my stay in SSS detention. They transferred me from one cell to the other. People knew I was arrested, and they tried to get to me, but they said I was not there. There was a time my lawyer tried visiting me, but they chased him away.

I drank my urine while in Port Harcourt cell, that was the only source of water.

Sometimes I ask myself, am I still alive?”¹³⁴

short as possible”. See also the Istanbul Statement on the Use and Effects of Solitary Confinement (adopted by a working group of 24 international experts on 9 December 2007 at the International Psychological Trauma Symposium, Istanbul), www.solitaryconfinement.org/istanbul, which calls on states to limit the use of solitary confinement to very exceptional cases, for as short a time as possible, and only as a last resort.

¹²⁹ Interim Report by the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 5 August 2011, UN Doc. A/66/268, para. 75

¹³⁰ UN Doc. A/Res/70/175, adopted on 17 December 2015, www.un.org/press/en/2015/ga11745.doc.htm

¹³¹ Rule 44.

¹³² Rule 45(1).

¹³³ Rule 43(1).

After two weeks in detention, he was told that he would be taken to his house for a search but instead they drove for 7 hours to Abuja where he spent another five months. He was eventually taken to court in November 2016 and charged with terrorism. His family was not aware that he was transferred to Abuja. When his lawyer made inquiries about him at the SSS office in port Harcourt, he was simply told he was not there. He told Amnesty International that when he was transferred to the SSS detention facility in Abuja, he was again subjected to ill-treatment:

“I was in that underground cell and I spent up to one month there without food. The cell had two different two horsepower ACs and there were tiles on the floor. I was lying on the tiles with just my boxer, no water to drink... the water that I was drinking was the water that was falling from the tap which was dirty. I spent one month in the underground, and I was the only one in the cell, but I could hear people making noise. I was not given any food... I was only taking tap water. I could see them taking food to the other inmates at the other cell. Whenever I stopped the handlers to request for food or say I have not eaten, he would tell me to go and die. He would now pass me to give other people food.

Okechukwu was charged in court with terrorism on 18 November 2016 and remanded in Kuje prison. He was finally released on 25 November 2016 after perfecting his bail. His case is still ongoing

¹³⁴ Amnesty International Interview, Abuja. 10 July 2019

7. TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Torture and other forms of cruel, inhuman or degrading treatment or punishment are absolutely prohibited in all circumstances under international and Nigerian law. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture. Torture is the intentional, purposeful, and officially sanctioned infliction of severe pain or suffering. Torture can be physical or mental.¹³⁵

Nigerian NGOs, international organisations and Amnesty International's research shows that torture is common and widespread among law enforcement agencies in Nigeria.¹³⁶ Since 2007, Amnesty International has documented widespread torture

¹³⁵ UN Convention against Torture, Articles 1 and 2.

¹³⁶ See HRW, "Rest in Pieces" Police Torture and Deaths in Custody in Nigeria. <https://www.hrw.org/report/2005/07/27/rest-pieces/police-torture-and-deaths-custody-nigeria>,

Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak MISSION TO NIGERIA : <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G07/149/66/PDF/G0714966.pdf?OpenElement>

among security agencies in Nigeria including the military and the police.¹³⁷ Amnesty research shows that law enforcement and security agencies are plagued by systemic problems ranging from poor training and equipment to endemic corruption, a lack of accountability and a climate of impunity. The reliance on “confessions” in investigations together with rampant incommunicado detention, a system riddled with corruption and personnel free to act with impunity, provides the ideal setting for torture and other ill-treatment.

The SSS maintain offices and detention facilities at all the state capital in Nigeria including Abuja. Amnesty International has not been granted access to any of the SSS detention facilities but has documented hundreds of allegations of torture or other ill-treatment in SSS custody since 2015. Most of the victim’s Amnesty International interviewed said they were tortured at SSS detention facilities in Abuja, Awka, Oshogbo, Lagos Minna, Enugu, Umuahia, Port Harcourt, Abeokuta and Kaduna. Most victims were tortured either to extract information and “confessions” or as punishment for their alleged offences.

7.1 INEFFECTIVE IMPLEMENTATION OF SAFEGUARDS

Amnesty International’s research has found poor enforcement of laws and regulations intended to safeguard against torture and other ill-treatment. From the 125 alleged cases of torture and other ill-treatment that Amnesty International documented in the course of this research, a pattern emerges of violations by the SSS of international law and standards as well as Nigerian national legislation in the arrest and interrogation of suspects as well as the detention condition. In particular, almost all incidents of torture and other ill-treatment researched by Amnesty International took place at the time of arrest and interrogation, when criminal suspects are sometimes held incommunicado (without access to legal counsel, families and the outside world as a whole) a treatment that may amount to torture.

The Nigerian president signed the anti-torture act into law in December 2017, following several years of sustained campaigning by Amnesty International and other local and international human rights organisations. This law effectively criminalized the use of torture by law enforcement agents in Nigeria.¹³⁸ However, despite the law, Amnesty international research could not find a single case where a single security officer has been convicted of torture since the law was enacted¹³⁹. It is not

Criminal Force: Torture, Abuse, and Extrajudicial Killings by the Nigeria Police Force:
<https://www.justiceinitiative.org/publications/criminal-force-torture-abuse-and-extrajudicial-killings-nigeria-police-force>

¹³⁷ See Nigeria: ‘Welcome to hell fire’: Torture and other ill-treatment in Nigeria.
<https://www.amnesty.org/en/documents/afr44/011/2014/en/>

¹³⁸ Nigerian Anti torture act, Section 9

enough for states to simply prohibit and criminalize torture under national law. States must take a range of further measures to protect people and prevent these forms of abuse. International human rights law and standards lay down a series of safeguards which, if implemented, reduce the isolation of detainees and maximize the opportunities for the actions of the authorities to be monitored and intervene if torture is alleged.

Concerning the time of arrest and initial period thereafter, Article 9 of the International Covenant on Civil and Political Rights requires that all arrested persons should be informed immediately of the reasons for their arrest, promptly informed of the charges against them and brought before a judge. Principle 16(1) of the Body of Principles on Detention requires that notification of arrest and any transfer of a detainee be provided to the family or other appropriate persons. The UN Human Rights Committee has also reiterated the importance of such notification.¹⁴⁰

The Nigerian constitution and other laws also provide several similar safeguards for suspects, including:

- The right to be informed about the facts and grounds of the arrest or detention.¹⁴¹
- Obligation to take an arrested person within a reasonable time to a police station.¹⁴²
- Reporting of persons arrested without warrant to the nearest magistrate.¹⁴³
- The right to be brought before a court within a reasonable time. This is stipulated as 24 or 48 hours for non-capital offences depending on the proximity of the court.¹⁴⁴
- The right to remain silent until consultation with a legal practitioner.
- The rights to have access to a legal representative or person of your choice, and to provide reasonable facilities for obtaining legal advice.¹⁴⁵

Despite the above provisions in Nigeria's constitution and international human rights law and standards, torture, arbitrary arrest and arbitrary detention are common in SSS detention. Many people who had been formerly detained at SSS facilities told Amnesty International that they were not told the nature of their offences during arrest, and were not granted access to lawyers and they were subjected to long detention without trial. In most cases, detainees are not allowed access to a lawyer and they are not brought to court within the constitutionally guaranteed period. Prolonged periods in pre-trial detention without access to a lawyer is illegal under international law as it creates an environment for torture and ill-treatment of detainees.

¹³⁹ See Nigeria: Time to end impunity: Torture and other human rights violations by special anti-robbery squad (SARS). <https://www.amnesty.org/en/documents/afr44/9505/2020/en/>

¹⁴⁰ UN Human Rights Committee, CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment), March 10, 1992, at 11.

¹⁴¹ Section 35(3) of the Constitution of the Federal Republic of Nigeria (1999). Section 35(3) of the Constitution of the Federal Republic of Nigeria (1999).

¹⁴² Code of Criminal Procedure, section 9.

¹⁴³ Criminal Code, section 20.

¹⁴⁴ Section 35(4) of the Constitution. In capital cases, suspects may be detained by the police for longer than 48 hours before being brought before a court of law (Section 35(7)). However, defendants must still be brought before a court within a reasonable time.

¹⁴⁵ Code of Criminal Procedure, section 9.

7.2 DENIAL OF ACCESS TO LAWYERS

An important safeguard against torture and other ill-treatment is the right to legal counsel, contained both in international human rights standards and Nigerian law.¹⁴⁶ As most detainees tend to be poor and from vulnerable groups, and given the lack of a functioning legal aid system, the right to legal counsel is completely notional in Nigeria.¹⁴⁷

Vast majority of the former detainees of SSS interviewed by Amnesty International said they were not allowed access to their lawyers and family members in detention even when the court ordered the SSS to so. Five of them said they only see their lawyers or family members when they are brought to court and even in such occasion they were not given enough time to interact with them. Five men who were detained by SSS in Abuja in July 2021 told amnesty that they were beaten when they requested to see their lawyers during interrogation. One of them described what happened.

*“When they took us inside eventually... they stripped us naked, left us only with our boxers. They took our names with our items. They took us to an office where they wanted to obtain our statement but we declined to write we requested for our lawyers, we requested for medical attention. The man simply smiled and worked out of the office. He said he will forward our request to his boss but he came back some minutes later with another man who ordered them to take us to a corner and torture us... he told them that after the torture, the last person to write a statement is their leader”*¹⁴⁸

7.3 TORTURE DURING DETENTION OR ARREST

Amnesty International spoke to 125 people who were arrested and detained by SSS between 2014 and 2021. 70 of them told Amnesty International that they were beaten and subjected to inhumane and degrading treatment during arrest and detention. Many of them described how SSS officers carry out all sorts of torture, using whatever means are available to them including hang detainees on a rope, using rifle butts and sticks to beat detainees, tying victims hands behind

¹⁴⁶ Principles 17, 18 of the UN's Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, <http://www.un.org/documents/ga/res/43/a43r173.htm> (last accessed 5 November 2021). Section 35(2) of the Nigerian Constitution also includes the right to remain silent until consultation with a legal practitioner.

¹⁴⁷ The Legal Aid Council lacks both the capacity and resources to fulfil its constitutional task. It has approximately 100 lawyers for the whole country. Its scope is limited to a number of specific crimes and it does not terrorism suspects, the crime most people awaiting trial are suspected of.

¹⁴⁸ Amnesty International Interview, 25 August 2021

their backs with rope and shooting people in the legs, leaving them to bleed. Some of them were unable to use their hands after they are. In addition, 65 former detainees interviewed by Amnesty International described their detention cells as dirty, generally without beds or bedding, and unhygienic. Toilets or running water were rare and most detainees urinated and defecated in plastic bags or buckets inside the cell. Medical care remained non-existent in most cases; a condition that amounted to torture and other ill and degrading treatment.

THE CASE OF CHINEDU OKEKE

Chinedu Okeke was arrested in Uyo in 14 October 2016 on charges of belonging to IPOB. He told Amnesty International that he was beaten during arrest:¹⁴⁹

“...at about 1am, I heard a loud bang on my door. A loud voice ordered me to open my door or they will break down the door..... I peeped outside the window and saw several armed men in black.... it now dawned on me they were here for me.

I opened the door and they asked for my phone, I showed them the phone on the floor. They took it and asked for my password I refused giving them and they started beating me,

They were blowing and hitting me on my head. I still feel sound coming from my ear and imagine their blows landing on my head, up till now.

They kept beating me because I refused giving them the password of my phone. One of them laid me down used his elbow to hit me on my spinal cord. The shock got to my head and brain and almost paralysed me. I quickly gave

them the password, but it turned out to be wrong because the beating they gave me got me confused. They resumed the beatings until I was able to remember the right password. They handcuffed my hand and tied my leg, blindfolded me. I didn't know where they were taking me to, I only perceived the movement knowing when the car swerved, bend or made a U-turn. They brought me to their office and removed the blindfolds¹⁵⁰.

When Amnesty International met Chinedu in January 2020, he still had scares around his legs, hands and back which he allegedly sustained from torture in SSS cell. He said that on his release, he was made to sign a document warning him that he would be prosecuted if he revealed what happened to him while in SSS custody.

¹⁵¹

Chinedu was transferred to SSS headquarters for detention where he again underwent torture and ill-treatment for 19 months until his release. He was not granted access to his family and lawyers. His lawyer wrote to the authorities in January 2017 asking for his whereabouts and demanding that he be released or charged for any offence he is being accused of, but he received no response. In March 2017 His lawyers filed a fundamental right enforcement suit claiming that his continued detention by the SSS is a gross violation of his rights. On 24 May 2017, a high court ordered the SSS to release Chinedu *on bail or charge him before any Court of competent jurisdiction “where there is a prima facie case of commission of crime”*.¹⁵²

¹⁴⁹ Amnesty International Phone Interview 27 June 2019

¹⁵⁰ Amnesty International Phone Interview 27 June 2019

¹⁵¹ Amnesty International interview, 30 January 2020

Chinedu's lawyers wrote to the SSS on 30 May and the Minister of Justice on 12 December demanding that the SSS obey the court order but received no response. In March 2018, the SSS finally arraigned him in court and charged for illegal importation of firearms and conspiracy to commit a treasonable felony against the Nigerian State. He was eventually granted bail on 26 June 2018, a year and eight months after his arrest. His trial is still ongoing.

THE CASE OF IKENNA EZE

Ikenna Eze, a 30 year old trader was arrested at about 9pm in front of his compound in Nnewi, Anambra State, on 16 August 2016 by five armed SSS officers on suspicion that he belonged to the Indigenous People of Biafra (IPOB) ¹⁵³

According to him, five armed SSS officers in two SUV vehicles laid ambush for him at his compound in Nnewi. On his arrival from work at about 7pm, the waiting SSS officials confronted him and asked him to confirm his identity. They inexplicably shot him severally on the leg, handcuffed him on both hands and legs before driving him away. His relatives told Amnesty International that they hid indoors when they heard gunshots, fearing that it might be a robbery attack, but came out after the armed men left. They said that they saw blood in the compound and some expended bullets left by the armed men. The family reported to the police but were told that they do not know anything about the arrest.¹⁵⁴ When Amnesty International met Ikenna, two months after his release, he said some of the bullet remained lodged in his leg until his release in March 2017. Amnesty international saw scarves on his head, hands, leg, back and stomach, which he said were inflicted on him during his detention. He told Amnesty International that he was subjected to torture at the SSS facility at Awka.

“After my arrest, they took me to their office; they handcuffed me on the leg and hands on the back and dumped me on the floor of a cell till morning. I was still bleeding and hungry. They did not do anything to stop my bleeding. They came back at about 8 am the next morning and asked me to tell them what they wanted to hear because I was almost dead. One of them suggested that they should give me medical treatment because I was already getting weak to enable them to extract all the information they need but one of them said it was not necessary to treat me since I would eventually die. They told me that their mission was to kill me. Since they suspected I had “Odeshi” (juju) on me, they would have tied me to their car and dragged me along the road, if I failed to die. At that time, I was not even aware of who they were”.

The next day, they came back and asked me to tell them everything about IPOB and Niger Delta Avengers and how to arrest certain IPOB members. I told them that I don't know anything about Avengers or IPOB. They asked if I am a member of MASSOB or IPOB. I admitted that I am an IPOB member. When I failed to give them the answer they want they said I may not be alive tomorrow.

¹⁵² Copy of Court document in Amnesty International file

¹⁵³ Amnesty International interview, Nnewi, 30 March 2017

¹⁵⁴ Amnesty International interview, Nnewi, 30 March 2017

At about 20 August, I was brought out at about 1 am. They brought one paper and asked me to sign. They said I would be killed if I failed to sign the paper. I refused to sign. They got angry and started hitting me with the iron till I passed out. He asked that I should be handcuffed at the back and made tight so that I would not sleep to open the windows to enable mosquitoes feast on me. I was not given any treatment for my bullet wounds. On regular occasions, the DSO would order for my torture until I said the truth but each time I refused to say anything. The torture was much and usually including beating with sticks and road. In one of the torture session, they broke my fingers. They also told me that I will be killed as soon as they extract all the information they need from me. We were about 16 in the cell. Four people died in the cell while I was there. One of them was Ifeanyi. When he died, they covered his body with mango leaves in a Hilux and drove away. He died at about 12am On 12 October 2016. The SSS told me that they will depose of my corpse the same way when I die in their custody.”¹⁵⁵

Ikenna was detained until 9 December 2016 when he was charged for “belonging to an unlawful organisation”. He was granted bail and released. He told Amnesty International that he did not report his ordeal to any authority because shortly before his release he signed a document, that he will not share his experience with anyone. His case is still ongoing.

THE CASE OF YUSUF MANSUR MUSTAFA

Yusuf Mansur Mustafa described how he was arrested together with his wife at their home in Ogun state by SSS officers on 5 July 2014, at around 3am, and taken to SSS Abeokuta.¹⁵⁶ He was hooded during this transfer. He asked for a lawyer that day, but was not granted one. Yusuf’s legs were chained continuously for the first three days while he was held in his cell and during questioning – accused of being a member of Boko Haram. His hands were chained, and his face was covered also while moving around SSS Abeokuta. His relatives tried to locate him, but both the police and the SSS denied holding the couple.

Eventually, Yusuf’s wife was released from SSS custody on 10 September; one of his relatives was called to come and collect her as she was close to giving birth. The same day Yusuf was transferred to SSS Abuja. His relatives had been warned that he would be moved shortly when they came to collect his wife, but it was only when they came back two weeks later that they were informed that he had been taken to SSS Abuja.

Yusuf Mansur Mustafa describes how he spent the first three days in SSS Abuja hooded and was beaten with sticks and otherwise ill-treated:

“They brought a lighter and set fire to my beard; I put it out with my hands. I had handcuffs on and chains on my legs. They hit me all over from different angles.”

After two months, in November 2014, Yuksuf was transferred by bus with some 60 other prisoners to a place he suspected to be Kanji barracks. Prisoners were blindfolded during the transfer, and chained together in twos. When they arrived,

“We realized that soldiers were now in charge...They pulled us down from the bus and lined us up and beat us with a big stick. It was bigger than a hand. They beat us as we were getting out of the bus. They beat

¹⁵⁵ Amnesty International Interview, 30 March 2017

¹⁵⁶ Amnesty International interview 4 April 2016

you as you are walking to the cells. Virtually everyone was beaten seriously.”

Yusuf describes how they were given no food for two days, and taken outside and beaten again on the second day. Neither he nor those he was held with had access to a lawyer.

Yusuf Mansur Mustafa spent some nine months there, without further beatings but in difficult conditions.

“We called it the jungle...They also called it Nigeria’s Guantanamo. I saw a picture of the real Guantanamo, but that one is beautiful by comparison.”

He was transferred back to SSS Abuja at the beginning of September 2015 and released shortly afterwards.

At no point during his detention did Yusuf Mansur Mustafa’s lawyer gain access to him, and he was held until September 2015 in spite of a ruling on 19 June 2015 by the Federal High Court in Abeokuta that he should be released and compensated.¹⁵⁷

He was never compensated.

THE CASE OF GRAHAM OBIOHA

Graham Obioha, a 39-years-old electrician, was arrested at his workplace by SSS officers and detained in July 2016 for allegedly belonging to the Indigenous People of Biafra(IPOB). He told Amnesty he was subjected to various forms of torture while in detention by the SSS.

I was taken to SSS office in Enugu and kept in an open cell without door or roof just a burglary door. The window was always open it was during raining season and the cold was terrible that time. At night when it gets cold they would bring us out to come and shower in that cold weather. I spent 11 days there before I was taken to Abuja.

He was detained for two weeks at the SSS detention centre in Enugu before he was transferred to SSS headquarters in Abuja. He said the torture and ill-treatment at SSS detention centre in Abuja was even worse.

“... the next morning, I was brought into the interrogation room where I was beaten, slapped, tortured to extract their statement. After that I was taken down to an underground cell.

...Inside that underground they had 3 big horsepower Air C conditioner with no remote control and switched. The AC is always on at every moment... Not just that we are asked to sleep on the tile without mattress.... Inside the underground people’s body were peeling off; my chest was peeling off just to enter the shower to take my bath my skin was just peeling because there was no sun, no air, nothing.

...There was a time they brought me out and asked me to do “frog jump”. While I was doing the frog jump, they were kicking me, hitting me with guns... like every else, I was not allowed to wear my clothes. We were just on boxers.

I was on a chain as well as blindfolded while frog jumping.

During my 16 months stay in SSS detention, I was taken out three times for torture. The first time was when they were taking my statement shortly after my arrest in July 2016. I was blindfolded. One man was asking me questions

¹⁵⁷ Amnesty International interview 4 April 2016

while another one at my back gave me several dirty slaps at interval. This is the way they extract their information. While the torture is going on, they place a gun before you and let you feel it... then they say to you. "You see this gun; we are not playing with it, if you want to survive and leave here, you better do what we say. Just obey and write what we want." The other two occasions were few weeks after the first incident.

".. On the first day I was tortured, the beating may have lasted between 30-60 minutes I can't remember the exact time after the beating they now took me to the room where I was supposed to write my statement".

The last torture they gave me was shaving my entire hair. This is to ensure that the cold from the A/C got to every part of my body. I nearly died of cold.

¹⁵⁸

Graham Onuoha was later arraigned in court for charges of terrorism in DATE, Months after his arrest and detention. Throughout his imprisonment, he was not granted access to his lawyers or family members. He was released on 12 November 2017, 16 months after his arrest. His case is still ongoing.

Amnesty international found out that Graham Onuoha's testimony was consistent with several other detainees who spoke to Amnesty International after their release. For instance, most of the former detainees who were detained at SSS detention facilities in Abuja collaborated the above testimony on the use of air conditioner by the SSS to exert pain on detainees while being stripped naked. Amnesty International found out that this is a common form of ill-treatment in SSS detention centres in different parts of the country, as the AC units not only make it very uncomfortable but muffle sound and prevent detainees from talking to one another.

THE CASE OF BALARABE ADAMU

Balarabe Adamu, a 47-year-old engineer, was arrested in his house in Ilorin, Kwara state, on 17 December 2012 suspected of terrorism. He was held incommunicado for 207 days in SSS detention, to elicit a confession which was then illegally used in evidence against him – was subjected to coercive treatment which as described below violates the prohibition on torture and other cruel, inhuman and degrading treatment.¹⁵⁹

After his arrest, he was transferred the next day to Abuja where he was held at the SSS detention facility in Abuja. He was detained without being arraigned or charged for a month until he was eventually brought before a magistrate's court on 18 January. He was also held incommunicado between his arrest on 17 December 2012 and 12 July 2013, when he was finally charged to the High Court, and only had first access to his lawyer in August 2013.

When he was held without access to the outside world, Balarabe Adamu described signing three statements. First on 23 December 2012, during interrogation by two white men between 18 and 25 December. A polygraph test was applied as part of this interrogation, but the statement obtained as a result was not subsequently produced in court.

He was then interrogated by Nigerian SSS officers until 25 February, and signed two confessional statements on 8 and 25 February 2013 (of 45 and eight pages

¹⁵⁸ Amnesty International interview 14 June 2019

¹⁵⁹ Amnesty International interview 5 December 2015

respectively). According to these, Balarabe Adamu was trained on the use of firearms and explosives while in Iran and undertook to provide details, including on security arrangements, regarding the Jewish cultural centre in Lagos and the locations of other companies in Nigeria. He was charged before the Chief Magistrate in Abuja on 13 February 2013 on conspiracy and criminal intimidation charges.

In an attempt to challenge Balarabe Adamu's unlawful detention, on 3 January 2013 his lawyer filed an application for the enforcement of his fundamental human rights against the Director-General of the State Security Service and the Director of the State Security Service in Ilorin.¹⁶⁰ Passing judgment on the case on 24 May 2013, the Federal High Court of Nigeria in the Ilorin division ruled that the arrest and detention of Balarabe Adamu without trial since 17 December 2012 was "illegal, baseless and unconstitutional"; that his continuous holding in SSS custody was a "gross and flagrant violation and infringement" of the right to freedom of movement; and that the respondents should release him on bail pending his arraignment before a court of competent jurisdiction.¹⁶¹

In a strong statement, the judge also noted: ***"It may be that the Respondents are fighting the scourge of terrorism which affects national security. There is however a need to maintain the clear balance between law enforcement and protection of human rights. Human rights violations cannot and must not be justified by waving the flag of terrorism."*** The court also awarded Balarabe Adamu N1.5 million (approximately \$4,143) in compensation.

Balarabe Adamu was not, however, released on bail and further legal rulings were far from in his favour, particularly in respect to the confessions which had been obtained from him while he was in unlawful and incommunicado detention. On 8 July 2014 his lawyer made a written submission to the Federal High Court in Abuja contesting the admissibility of the two confessional statements made to the SSS in February 2013, as part of what is known as a 'trial within a trial', used when torture is suspected or alleged.¹⁶² In such a case the prosecutor must prove that the statement was made voluntarily.

Balarabe Adamu's evidence as part of this 'trial within a trial' gives a harrowing account of how he was coerced and threatened into making statements. Concerning the interrogation which included a polygraph, he described how he was first questioned on 18 December 2012 by two white men who shouted at him and pretended to punch him. After a sleepless night he asked for drugs needed for his glaucoma. He was promised eye drops, but although he repeated his request every day these were only provided on 25 December, after he had given a written statement.

The interrogation resumed on 20 December, when Balarabe Adamu was reduced to tears by his interrogators telling him he was a member of Boko Haram and would be treated as such. On 21 December, he was told that he would have to take a lie detector test the next day. His hands were then tied behind his back, and his legs chained during that day's interrogation.

The next three days, from 22 – 24 December, Balarabe Adamu was strapped into a chair for two sessions per day of a polygraph test, and told each day that he had failed the test. He finally signed a confession after being promised an amnesty, and

¹⁶⁰ Copy of the court Document in Amnesty International file

¹⁶¹ AI has a copy of the judgment.

¹⁶² Under Nigerian law the judge can decide to open a 'trial within a trial' when torture is suspected or alleged and the prosecutor must prove that a statement was made voluntarily - see section 7.3 below. AI has a copy of the lawyer's submission.

threatened that his family would be brought to watch him being interrogated. This statement was not subsequently produced in court.

¹⁶³

7.4 CONDITIONS OF DETENTION AMOUNTING TO TORTURE AND ILL-TREATMENT

Amnesty International found that detention conditions in at least 16 SSS detention facilities across Nigeria appear to violate the country's obligations under international law and standards, including the UN Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules).¹⁶⁴ Amnesty International interviewed 125 former detainees at SSS detention facilities in 16 states.¹⁶⁵ They described how SSS officers treat detainees in their custody. These conditions, as described by former detainees, are damaging to the physical and mental well-being of detainees. Cells and other confinement spaces are generally severely overcrowded, hot and unhygienic, with little or no sanitation facilities. Food and water are grossly inadequate. Although some detainees said they were taken to a SSS clinic when they fell sick, many said they were not given adequate treatment. Amnesty International believes that the conditions of detention in many SSS detention centres are so appalling that they may in themselves amount to ill-treatment and in some cases it may amount to torture.

All people deprived of their liberty must be treated with humanity and respect for the inherent dignity of the human person.¹⁶⁶ International standards, particularly the Nelson Mandela Rules¹⁶⁷ set out specific requirements for the accommodation of prisoners, particularly regarding space, ventilation, health care, food, access to the outside world, natural light, sanitation and hygiene.

Of the 125 people interviewed by Amnesty International all of them said they were detained for a period of between 2 months and 2 years before being taken to court

¹⁶³ Amnesty International phone interview 18 July 2019

¹⁶⁴ Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977: https://www.unodc.org/pdf/criminal_justice/UN_Standard_Minimum_Rules_for_the_Treatment_of_Prisoners.pdf

¹⁶⁵ The detainees were detained in SSS detention facilities in Lagos, Abeokuta, Ilorin, Asaba, Kano, Niger, Kaduna, Port Harcourt, Awka, Enugu, Oshogbo and Abuja

¹⁶⁶ Article 10, International Covenant on Civil and Political Rights, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

¹⁶⁷ Resolution adopted by the General Assembly on 17 December 2015, (A/70/490)], 70/175. United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) Rule 13 "All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation"

and did not have enough food during their detention; while only two people said they were allowed to see their lawyer or family member during the period of their detention. All the 125 former detainees interviewed also said they were detained in an overcrowded cell without access to sunlight for a period of 24 hours daily except when they were being taken for interrogation.

A 43-year-old man who was arrested and detained by the SSS in June 2016 described the condition in a SSS cell in Abuja:

“The Abuja (SSS cell) experience was very horrible. I was forced to sleep on a tiled floor on my first day. The next morning, I was brought into the interrogation room where I was beaten, slapped, tortured to extract their statement. After that, I was taken down to an underground cell...

In that cell, you don't know day or night there was nothing like a window; the room was airtight. Once you are taken down there nobody knows where you are. No air comes in or goes out. Inside that underground they had like 3 different horsepower AC always on and the remote and switch taken out. The AC is always on 24/7. The 3 horse power ac was in different corners of the room and it was being controlled by them so you can't even off it or reduce it. Most times when it gets so cold we run inside the toilet just to catch a bit of warmth because there is no AC inside the toilet. Not just that we are asked to sleep on the tile without mattress, while there I developed chest pain and I was kept under that condition with leg chain and hand chains. For the 6 months I stayed there, I was eating and sleeping with chains on both legs and hands. You eat with your leg chain and hand chain and each time one person gets infected with catarrh or any other sickness it goes round because there is no cross ventilation everything circulates there.

I was able to differentiate day from night by checking the time on a wrist watch we found there. You only see sun or breeze when they take you up for interrogation ... Inside the underground cell, people's body were peeling off, the skin on my chest was peeling off... because there was no sun, no air nothing”.¹⁶⁸

Another 29 year old former detainee who was detained for three weeks in Port Harcourt SSS facility in November 2018 told Amnesty International that he was made to sleep in a crowded cell without his cloths for the period of his detention.¹⁶⁹

*“We were about 15 in a very small cell, we were all naked except our boxers(pants) I got sick on several occasions but I was not given any medical attention. We were fed ones or twice in a day. The food was usually insufficient and tasteless”.*¹⁷⁰

Another 33-year-old man who was arrested and detained in June 2016 for three weeks in SSS detention facility in Port Harcourt described the detention condition in the facility.

“The cell had a small window up there was no light. The window had a glass on it. There is no place to urinate... if you want to urinate you use the bottled container and if you want to defecate you use the plastic bag that was by the side.... There was no toilet there. It was the people in the cell that provided the plastic bags and bottle. We were 5 in the cell. I was not given food for the

¹⁶⁸ Amnesty International phone interview, Abuja 14 June 2019

¹⁶⁹ Amnesty International interview, Port Harcourt 9 May 2019

¹⁷⁰ Amnesty International interview, Port Harcourt 9 May 2019

2 weeks.... But some inmates smuggled bread into the cell... I managed to eat some of the bread There was no water we were drinking our urine.¹⁷¹

7.5 NO ACCESS TO MEDICAL FACILITY

The UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provides that detainees and prisoners must be offered immediate medical examination and, where necessary, care and treatment.¹⁷² They may also ask for a second medical examination or opinion.¹⁷³ Proper medical examinations are necessary to evaluate the health of the prisoner (and provide treatment as needed) and evaluate the health of the prisoner (and provide treatment as required) and document any signs of ill-treatment.

However, most of the torture victims Amnesty International met claimed that it took days before they were taken to any doctor for medical examination. They said that when they were taken to a doctor, usually at the SSS clinic, the doctor was not examining them to document evidence of torture but merely provided them with pain killers and malaria drugs.

Even in cases where torture victims are brought to medical personnel in accordance with international and Nigerian law, there is a persistent problem with inadequate medical examination and reporting. Many of those alleging torture told Amnesty International that medical personnel examined them perfunctorily, merely asking them how they were and not bothering to check them thoroughly, even where physical signs of abuse were visible to a casual inspection. Some torture victims felt that their claims of torture were not treated seriously.

UNCAT requires state parties to ensure that those (including medical professionals) involved in the custody, interrogation or treatment of any individual subjected to arrest, detention or imprisonment receive sufficient education and information regarding the prohibition against torture during their training.¹⁷⁴

The Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (and the related Istanbul Protocol)¹⁷⁵ require that a medical expert prepares an accurate written report with details on the history of the alleged torture incident, results of the physical and psychological examination, and an opinion on the probable relationship of the physical and psychological findings to possible torture or other ill-treatment.

The Anti Torture Act (ATA) prescribes additional safeguards to ensure prompt detection and documentation of torture. Medical examiners are duty-bound legally and ethically to conduct a diligent and complete medical examination.

¹⁷¹ Amnesty International Interview, Abuja 10 July 2019

¹⁷² UN Body of Principles for the Protection of Persons Under Detention or Imprisonment, Principle 24.

¹⁷³ Ibid., Principle 25.

¹⁷⁴ UNCAT, Art. 10.1.

¹⁷⁵ Office of the High Commissioner for Human Rights, Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Istanbul Protocol"), 2004, UN DO. HR/P/PT/8/Rev.1.

The ATA was signed into law in December 2017. Amnesty International welcomes the safeguards provided by the ATA to ensure that torture and other ill-treatment are documented. In practice, however, such steps have rarely been taken since the ATA was enacted.

At former detainees interviewed by Amnesty said they did not receive adequate medical attention while in detention. For example, Amnesty International researchers interviewed 25-year-old Baker who was arrested in Oshogbo, Osun state for organizing a mass protest on 5 August 2019. He told Amnesty international that the SSS officers refused him medical assistance after he complained of severe pain and fever but only gave him paracetamol when his health deteriorated. He said:

“During the protest, I was arrested by several SSS agents who beat me up and chained me to a vehicle. They drove me to their office and locked me. I requested for a lawyer but they refused but instead locked me up in a small cell for 2 days without food. Two SSS officers brought me out on the third day for interrogation. They threatened to kill me and dump my corpse in a mass grave. Any time I mention anything about my rights, they will start beating me. They told me that National security is more important than my rights. They kept asking me about the sponsor of the protest while beating me with sticks and rods. They took me to the torture room but discovered that the equipment was not working. I saw a lot of torture instrument like electric shock, sticks, rods and whips. I was lucky that the equipment could not work when they tested it. They returned me to the interrogation room. While I was being asked a question, two of them was also beating whenever they felt I did not give them the type of answer they wanted... when I fell sick. ... I complained to the officials; they kept telling me that they would make a case for me. When my health deteriorated, they then gave me paracetamol.”¹⁷⁶

Eight former detainees who were detained in a SSS cell in Abuja told Amnesty International that they were merely given malaria tablets and pain killers when they were taken to the clinic after falling sick. They were not diagnosed for any illness before the drugs was administered and were left on their own when the sickness deteriorated.

7.6 ADMISSION OF EVIDENCE FROM TORTURE

In spite of the prohibition to use statements and other forms of evidence elicited as a result of torture, ill-treatment or other forms of coercion, five lawyers have told Amnesty International that there continues to be a reliance on confessional statements allegedly obtained under torture to prosecute criminal cases. Under Nigerian law, the judge can decide to open a ‘trial within a trial’ when torture is suspected or alleged. The prosecutor must prove that a statement was made voluntarily. While such a process can play an important role in combatting torture, it nonetheless falls short of international standards, which require that such an

¹⁷⁶ Amnesty international interview, Abuja. 15 October 2020

investigation should not be discretionary but directed in all instances where torture is alleged, or there are reasons to believe it has taken place.

Further, since many of those subjected to torture or other ill-treatment are often too poor to afford a lawyer, concerns about how “confessions” have been obtained are usually not raised before the court in such cases. Even where lawyers present allegations of torture before the court, the long periods of remand before the trial ensure that injuries caused by torture are usually no longer visible. In addition, some judges are said to deal with such allegations in a superficial manner.

THE CASE OF IDOWU ADEWALE AFOLABI

Idowu Adewale Afolabi was arrested and detained by SSS officers on 24 December 2012 in Lagos.¹⁷⁷ His lawyer also applied to enforce his client’s fundamental rights against the SSS. In July 2013, the Federal High Court in Abuja ordered the respondents to release Idowu Adewale Afolabi and grant him compensation for unlawful arrest and detention.¹⁷⁸ He was not, however, released.

While in what the Federal High Court had ruled was unlawful detention, Idowu Adewale Afolabi had in January 2013 produced a statement of confession to involvement in terrorism, allegedly under duress, and following questioning in the absence of his lawyer. According to his lawyer Idowu Adewale Afolabi had been hooded for two weeks and subjected to electric shocks to force him to confess.

The lawyer filed a written address for a ‘trial within a trial’ to examine the allegations of torture. Still, the presiding judge ruled that the evidence presented was insufficient to invalidate the confession. The trial was continuing as of November 2021 as the process has been slow.

8: DISREGARD OF COURT ORDERS FOR RELEASE OF SUSPECTS

The judicial system is meant to play an important role in ensuring rights are protected and respected, including in combatting torture. For example, international standards require that individuals be brought before a judge promptly after arrest or detention. The burden of proving that the initial arrest or detention was lawful and that the continued detention, if ordered, is both necessary and proportionate, lies with the state authorities. During such a hearing, the detainee has the right to be brought physically before a judicial officer.¹⁷⁹

Statements and other forms of evidence elicited as a result of torture, ill-treatment, or other forms of coercion must also be excluded from evidence in all proceedings.¹⁸⁰

¹⁷⁷ Amnesty international phone interview, 7 December 2015

¹⁷⁸ The judge in the case was Justice O.O. Goodluck. AI has a copy of the judgment.

¹⁷⁹ The right to be brought before a court within a reasonable time is set out in Section 35(4) of the Nigerian Constitution. In capital cases, suspects may be detained by the police for longer than 48 hours before being brought before a court of law (Section 35(7)). However, defendants must still be brought before a court within a reasonable time.

¹⁸⁰ International human rights law including the UN Convention against Torture prohibit the use of statements obtained through torture or other ill-treatment as evidence in any proceedings. Section 28 of the Nigerian Evidence Act is similarly clear on the prohibition against using information gained from an accused person by means of inducement, threat or promise. In addition, the Principles on Fair Trial in Africa state that any confession or

Judges have a pivotal role to play in ensuring that this crucial safeguard is actively deployed.

Amnesty International spoke to several lawyers who said they were uncomfortable with the way many judges treat cases involving the SSS. They cited many instances when judges are reluctant to rule against the SSS when they fail to appear in court include hearings of applications brought to seek enforcement of fundamental human rights.

Nigeria's flawed criminal justice system, however, remains under-resourced, blighted by corruption and generally distrusted. Failures in the court system include issuing warrants of detention without seeing the individual; delays in the system, especially when dealing with enforcement of fundamental human rights applications and in-camera proceedings; admission of evidence from torture; and remanding suspects into the custody of the investigating authority. Amnesty International research shows that even when Judges rule against the SSS, they are reluctant to obey such ruling and, in many cases, simply ignore such rules.¹⁸¹ Amnesty International interviewed three lawyers who said that in several cases where they represented clients who were detained by the SSS and who applied for the enforcement of their fundamental human rights under sections 34 and 35 of the Nigerian Constitution, the SSS simply told the judge that their client is not in their custody. In such cases, the judge simply dismisses the cases.

Amnesty International documented 27 cases where the SSS disregarded court orders for suspects to be released on bail or has complied only after an undue delay. The victims' lawyers were often forced to go back to court to compel the SSS to obey the court order. In many cases documented by Amnesty International, even when there are multiple court judgements from different court courts directing the SSS to release a detainee, they simply ignore such orders.

CASE OF OMOYELE SOWORE

Sowore Omoyele's case reflects the SSS' growing intolerance of criticism and brazen violations of citizens' rights and liberties.

Sowore Omoyele, a 50-year-old pro-democracy activist and journalist, was arrested at his hotel room in Lagos on 3 August 2019 by operatives of the SSS, two days before a planned protest by a group known as #RevolutionNow. Sowore is the convener of the group. Amnesty International was told that eight armed men cordoned off the building and arrested him after a slight altercation. He was then driven to the SSS office in Lagos before flying to Abuja on 5 August 2019.¹⁸²

On 5 August, the SSS approached the Federal high court in Abuja with an ex parte motion seeking to detain him for an additional 90 days on the ground that they needed the period to complete their investigation.¹⁸³ SSS anchored its application on section 27(1) of the Terrorism (Prevention) Amendment Act. On 8 August 2019, the court granted the SSS the order to detain him for 45 days while he was investigated

admission made during incommunicado detention should be considered as having been obtained by coercion, and therefore must be excluded from evidence (Section N(6)(d)(i) of the Principles on Fair Trial in Africa).

¹⁸¹ Amnesty International Interview with a Senior Lawyer, Abuja. 7 November 2021

¹⁸² Amnesty International Interview, Abuja 30 March 2021

¹⁸³ Court Document in Amnesty international file.

for “terrorism, cyber stalking and money laundry”. The SSS did not produce any evidence against him, other than his bank account showing transfer of \$20,475 dollars from his UBA account to the account of Sahara Reporters Media Group, a media organization he founded. Amnesty International believes these accusations are entirely unfounded and solely stem from the peaceful practice of his rights to freedom of expression, association and participation in public affairs. Sowore Omoleye is consequently a prisoner of conscience.¹⁸⁴

On September 24 2019, the SSS, through their lawyers, approached the court to withdraw an application they had earlier filed, seeking an extension of the order they had gotten from the court to remand Sowore in their custody for 45 days, pending investigations. They promised the withdrawal of this application on the fact that they had advised the Attorney General and criminal charges had been filed against Sowore, as such, there was no need to seek an extension of time to remand him in the light of the imminent arraignment. The court granted the application of the SSS and the application to renew the remand order was withdrawn.

On the strength of this withdrawal, Sowore’s lawyers applied to the court that he be released. The court granted this application and ordered that Sowore be released after depositing his international passport with the court. Sowore complied ,but the SSS continued to detain him till he was presented in court on 30 September 2019, 60 days after his arrest. He was charged with treasonable felony, money laundering and cyberstalking.

Sowore’s lawyers brought to the court’s attention that the SSS was still in disobedience of the court order concerning his release and urged the court to order the SSS to comply with that order before Sowore was arraigned. The court ignored their plea and ordered that Sowore be taken back to the SSS custody pending the next adjourned date. On 4 October 2019, the court again granted bail to Sowore but imposed some stringent bail conditions, including the deposition of a \$ 276,625.17 bail bond.

His case drew national and international attention. Amnesty International declared Omoleye Sowore and two other activist prisoners of conscience and called for their immediate release. Several other international organizations, including the American Bar Association, described his detention as illegal.

On 5 December 2019, the court again gave the SSS a 24 hours’ ultimatum to release Sowore and fined the SSS N100,000(\$423) for failing to comply with its earlier order. Instead of complying with the order, masked SSS officers on 5 December invaded the courtroom in a bid to rearrest Sowore. The incident sparked national and international outrage. For instance, a national newspaper described the incident:

“...In one fell swoop, the (SSS) operatives desecrated a court room, made a mess of the separation of powers between the executive, the legislature and the judiciary, and gratuitously infringed the fundamental rights of Messrs Sowore to enjoy the bail that had been granted them. Our democracy was brought into disrepute through this most unfortunate action. We are now at that point where it is being argued that

¹⁸⁴ Nigeria: Sowore, Bakare and Jalingo declared Prisoners of Conscience, <https://www.amnesty.org/en/latest/press-release/2019/11/nigeria-sowore-bakare-and-jalingo-declared-prisoners-of-conscience/>

never in the history of Nigeria, including during the colonial period and the dark days of military rule, has such brazen act of disrespect for the sanctity of our law courts and independence of the judiciary been perpetrated”¹⁸⁵

Embarrassed by the incident, the SSS, spokesperson claimed that the entire scene was stage-managed by Mr. Sowore and his team of lawyers. However, following the widespread outrage over Sowore’s rearrest, the Federal government on 23 December 2019 ordered the SSS to comply with the order granting bail to Sowore.¹⁸⁶ He was released the same day after 125 days of solitary confinement by the SSS. His case remains in court with multiple adjournments. The court has restrained him from leaving Abuja until the end of his trial despite the fact that he is resident in New York, USA.

CASE OF EMPEROR GABRIEL OGBONNA

In yet another case where the SSS refused to obey court order, Emperor Gabriel Ogbonna, lawyer and activist, was arrested by the police at his home in Aba, Abia state on 24 March 2020 by a team of policemen and officials of Abia state government over a Facebook post he made criticizing the Abia state government.¹⁸⁷ On 26 March 2020, he was charged at a magistrate court in Umuahia for cyber terrorism under Section 27(1) (a) and 18(1) of Nigeria’s Cyber Crimes Act. However, because the magistrate court lacked jurisdiction to hear the case, he was remanded at a correctional facility in the state capital until 28 April ,when he was arraigned before the Federal High Court in Umuahia and granted bail. His lawyers told Amnesty International that moments after the court granted bail to Emperor Ogbonna, a team of SSS and Abia state Government officials tried to rearrest him but the Correctional Centre resisted on the ground that the bail condition was not yet perfected. A few hours later a team of SSS officials in company of Abia state government officials again laid siege at the premises of Umuahia correctional center, and arrested him at about 6pm shortly after he perfected his bail and was released from the prison.¹⁸⁸

Gabriel Ogbonna was eventually tried at the Federal High Court, Umuahia in Abia State and on 26 June 2021 the court dismissed all the charges against him¹⁸⁹. The SSS continue to hold him unlawfully despite the dismissal of the charges against him.

His lawyers approached the Federal High Court seeking to enforce his fundamental right to personal liberty guaranteed. The court on 29 June 2020 declared his arrest and detention illegal and unconstitutional and ordered the State Security Service to release him from custody unconditionally or charge him before a court of competent jurisdiction.¹⁹⁰ It also granted an order restraining the SSS and the Abia state

¹⁸⁵ Premium Times EDITORIAL: Bichi Must Go; Buhari Must Halt Slide Into Despotism. <https://opinion.premiumtimesng.com/2019/12/14/editorial-bichi-must-go-buhari-must-halt-slide-into-despotism/> <https://opinion.premiumtimesng.com/2019/12/14/editorial-bichi-must-go-buhari-must-halt-slide-into-despotism/>

¹⁸⁶ <https://guardian.ng/news/fg-orders-sowore-dasukis-release-from-detention/>

¹⁸⁷ Amnesty international interview, Abuja 2 May 2020

¹⁸⁸ Amnesty international interview, Abuja 2 May 2020

¹⁸⁹ Court Document in Amnesty International File

¹⁹⁰ Court Document in Amnesty International File,

government from further harassing, re-arresting and detaining him and further awarded N1.5m (\$ 4000) damages for his 2-month detention without trial.

Gabriel Ogbonna was initially detained at the SSS facility in Umuahia without access to his lawyer and family members and subsequently moved to Abuja in April 2020. The SSS continued to hold him despite the court order and refused to grant him access to his lawyer and family members. Emperor Gabriel Ogbonna was eventually released on a 2 million Naira bail on 18 August, four months after his arrest and detention.

CASE OF IBRAHIM EL-ZAKZAKY

This case of Ibrahim El-Zakzaky, Leader of Shi'a Islamic Movement in Nigeria, is one of the 27 cases documented by Amnesty International showing how the SSS frequently disobey court orders to release detainees in their custody.

El-Zakzaky was arrested by the Nigerian military on 14 December 2015, after soldiers stormed his residence and the Islamic Movement in Nigeria headquarters (Hussainiya Baqiyatulla in Zaria, Kaduna state), unlawfully killing at least 347 of his supporters between 12 and 14 December 2015.¹⁹¹

Shortly after his arrest, El- Zak Zakky (68) and his wife Zeenah (66) were handed over to the SSS, who has since held them at an undisclosed location. Family members and associates told Amnesty that they could only see him on rare occasions and only for a few minutes. They frequently complained of his deteriorating health condition and the refusal of the SSS to allow him access to his doctors.¹⁹²

On 2 December 2016, a Federal high court in Abuja ordered the release of Ibrahim El Zakzaky from the custody of the SSS within 45 days. El Zakzaky and his wife were to be paid the sum of 50 million Naira (\$164,052) in compensation. The presiding judge said that the justification of "holding him for his own protection" is not sufficient.¹⁹³ The SSS ignored the judgment. On one occasion, the SSS justified their continued detention of El Zakzaky, saying he was being detained "at his own will and for his benefit".¹⁹⁴

On 19 January 2018, the Attorney General of the Federation filed an eight-ground notice of appeal against the court's judgment, over one year after the initial judgement by the Federal High Court. The appeal court struck out the appeal on the ground, among other reasons, that the appellant(the federal government) has not complied with lower court's judgment.¹⁹⁵

On 15 April 2018 the Kaduna state government filed a charge of culpable homicide against El Zakzaki, his wife and two of his followers, Yahya Yakubu and Sunusi Abdulqadir but later dropped the charges against his two followers.¹⁹⁶

¹⁹¹ See NIGERIA: UNEARTHING THE TRUTH: UNLAWFUL KILLINGS AND MASS COVER-UP IN ZARIA. <https://www.amnesty.org/en/documents/afr01/3883/2016/en/>

¹⁹² Amnesty International interview with IMN spokesman, 2 December 2018

¹⁹³ Court Document in Amnesty International File

¹⁹⁴ **SSS: El-Zakzaky being detained in his own interest, The CABLE**
<https://www.thecable.ng/SSS-el-zakzaky-detained-benefit>. Accessed 5 July 2019

¹⁹⁵ Amnesty International interview, Abuja 29 July 2019

¹⁹⁶ Amnesty International Interview, Abuja 6 June 2019

On 5 August 2019, a High Court in Kaduna granted Ibrahim El Zakzaky leave to seek medical attention in New Delhi, India, on the condition that he must return to face trial after his treatment. The Kaduna state government, which opposed his request in court, filed a “terms for strict supervision of his medical leave”¹⁹⁷. On 9 August 2019, El Zakzaky left for India with his family members and security official. He, however, returned to Nigeria six days later, on 15 August, after a disagreement with Nigerian officials in India. His continued detention often led to violent clashes between the security forces and his unarmed followers, with at least 100 people killed since 2015.¹⁹⁸

On 28 July 2021, the court discharged and acquitted El Zakzaky of eight count charge of culpable homicide, disruption of public peace and unlawful assembly, among others and acquitted El Zakzaky of eight count charges culpable homicide, disruption of public peace, and unlawful assembly. He was released the same day by the SSS who continued to hold on to his passports. His lawyer told Amnesty International that the health of El Zakzaky and his wife has deteriorated since his detention and without his passport, they will be unable to travel for medical treatment.¹⁹⁹

CASE OF SAMBO DASUKI

Sambo Dasuki a former security adviser to former President Goodluck Jonathan, was arrested in his home at Abuja in December 2015 and detained by the SSS.

He was charged for unlawful possession of arms and money laundering as well as diverting about \$2.1bn meant for arms procurement to fight the armed group Boko Haram.²⁰⁰ Amnesty International’s research showed that Sambo Dasuki has been granted bail on five occasions by a Nigerian High court and on one occasion by the ECOWAS court. Again, on 18 December 2015, the FCT high court granted Dasuki bail in the sum of N250 million.

Dasuki lawyers had also approached the ECOWAS Court, which on 4 October 2016 declared his arrest and detention as unlawful and arbitrary. The court also held that the further arrest of the former NSA by government on 4 November 2015, after a court of law granted him bail, amounted to “a mockery of democracy and the rule of law”.²⁰¹ It had therefore ordered the Federal Government to immediately release Dasuki from detention and pay him N15m damages.

¹⁹⁷ <https://www.premiumtimesng.com/news/headlines/345585-kaduna-govt-moves-to-frustrate-el-zakzakys-medical-leave-granted-by-court.html>

¹⁹⁸ <https://www.amnesty.org/en/latest/news/2018/10/nigeria-security-forces-must-be-held-accountable-for-killing-of-at-least-45-peaceful-shia-protesters/>

¹⁹⁹ Amnesty International interview. Abuja, 3 September 2021

²⁰⁰ **Nigeria's Dasuki 'arrested over \$2bn arms fraud'** <https://www.bbc.com/news/world-africa-34973872> Accessed 30 July 2019

²⁰¹ <https://www.premiumtimesng.com/news/headlines/211938-ecowas-court-orders-dasukis-release-imposes-n15-million-fine-on-nigerian-government.html> Accessed 28 August 2019

On 24 January 2017, the FCT court reaffirmed the bail on Dasuki on the grounds that he was entitled to it and having been admitted to the same since 2015 when the federal government brought criminal charges against him.

Again on 18 May 2018, the same court in Abuja further reaffirmed the bail it granted Dasuki in 2015. Dasuki was arraigned on 32 counts amended charges. The family told Amnesty that they met the bail conditions, but the SSS refused to release him. Instead, he was again arraigned on a 32 count charge of stealing and diversion of public funds

On 2 July 2018, another court in FCT Abuja again granted bail to Sambo Dasuki while describing his continuous detention as an “aberration to the rule of law”.²⁰²

On 13 July 2019, the Appeal court again granted bail to Sambo Dasuki. The court also ordered the federal government to pay Dasuki N5 million (Approximately \$13,882) for holding him in violation of section 35 (6) of the constitution which gives every Nigerian the right to free movement.

On 24 December 2019, the Nigerian government ordered Gambo Dasuki’s release.²⁰³

His case is still ongoing.

THE CASE OF AMINU KUBRA

Aminu Kubra, a 59-year-old trader was arrested from Kano airport on 21 March 2013 by the SSS on charges of terrorism while returning to Nigeria from Lebanon. He was transferred to the SSS Abuja office the next day, where he was detained. On 24 April 2013, his lawyer submitted an application to the High Court in Abuja because Aminu Kubra was being held without medical attention or access to a lawyer and seeking his release, an apology, and compensation. The suit named the Director of State Security Services in Abuja, the State Security Services in Abuja, and the Attorney General of the Federal Republic of Nigeria as respondents.²⁰⁴

Only the Attorney General’s office responded to the suit, with the court later noting that the respondents from the SSS “have not reacted to the suit at all despite evidence that they have been served with the originating motion on notice dated 23/4/13 but filed on 24/4/13.”²⁰⁵ In a counter-affidavit filed on 21 June 2013, the Attorney General noted that the arrest and detention of Aminu Kubra were on suspicion of being a member of “the Terrorist group in Lebanon called Hizbullah”, trained and sent back to Nigeria to recruit more Hizbullah fighters.

On 20 November 2013, the Federal High Court in Abuja ruled on the motion. Although the judge placed the interests of national security over those of the applicant’s right to personal liberty, therefore refusing the application for bail, he did rule that Aminu Kubra be charged to court within three weeks of that date to answer charges.

²⁰² <https://www.premiumtimesng.com/news/headlines/274612-breaking-again-court-grants-ex-nsa-dasuki-bail.html> Accessed 28 August 2019

²⁰³ <https://guardian.ng/news/fg-orders-sowore-dasukis-release-from-detention/>

²⁰⁴ Court document in Amnesty international file.

²⁰⁵ AI has obtained a copy of this judgment.

Aminu Kubra was not charged to court by that date, however, and three months later, his lawyer was forced to return to the courts to seek enforcement of the High Court's judgment. This suit was lodged on 17 February 2014 with the Federal High Court in Abuja, citing the Director-General of the State Security Services in Abuja and the State Security Services at Headquarters in Abuja as respondents.²⁰⁶ It noted that Aminu Kubra had still not been charged as earlier ordered (noting that "there are more than twenty seven High Courts in the Federal Capital Territory, Abuja and more than seven Federal High Courts in Abuja, but the Respondents refused to arraign him before any competent court"), and again requested an order of habeas corpus and his release.

Hearing the suit this time, on 28 May 2014, the Federal High Court in Abuja ordered that Aminu Kubra should be released on bail set by the respondents, pending his arraignment, or released "forthwith" if the SSS had no allegation of criminal offences against him.²⁰⁷

As with the previous suit, the judge again criticized the lack of response by the SSS. He noted that the respondents had been served with the application on 3 March 2014 and in addition had been served with hearing notices dated 26 February and 7 March 2014, "but they did not both to either enter appearance, file processes like counter affidavit or written address. The respondents also refused completely to appear before this Court to answer to this suit." The judge also expressed his "displeasure" with the conduct of the respondents in the case, noting that "one expects the Respondents to abide by decisions of Courts of law" and that "there is no right in the Respondents to disobey valid orders of a Court of law without any justification."

Aminu Kubra was still not released, however. He was finally charged to court at the Federal High Court on 3 December 2014 on counts of acts preparatory to terrorism. The trial began in 2015 and is currently ongoing.²⁰⁸

²⁰⁶ This suit was No. FHC/ABJ/CS/112/2014.

²⁰⁷ The case was heard by Justice A.R. Mohammed. AI has obtained a copy of this judgment.

²⁰⁸ Amnesty International phone interview 31 July 2019

8. CONCLUSION AND RECOMMENDATIONS

The mission statement of the SSS specifically notes that the provision of internal effective security coverage of the country must be “within the norms of democracy and rule of law.”²⁰⁹ This report, however, documents numerous, credible and consistent accounts that officials from the SSS have flouted domestic and international law by carrying out arbitrary detentions, keeping detainees incommunicado, conducting flawed investigations and even torturing or otherwise ill-treating those in their custody, not to mention cases of enforced disappearances.

Families of those detained have often been left in the dark, not informed of the identity of the arresting authority, the location of their relatives or the reason for their arrest. Many do not have the financial resources to obtain the assistance of a lawyer to force disclosure through the courts and have only scraps of information passed on by released prisoners who had been held with their loved ones.

Families and lawyers have been denied access to their relatives even when the SSS accepts that the suspect is in their custody – and even to the point of disregarding court rulings compelling access. In some cases, lawyers have only been able to see their clients when they are brought from detention for a court hearing – for brief periods and in conditions remote from the necessary time and privacy to properly discuss a case and take instruction.

In some cases, the SSS has refused to comply with direct court orders to bail or release detainees, forcing the family to return to court to seek enforcement of the original decision. All this plays out against the backdrop of a flawed justice system that remains under-resourced overstretched and generally distrusted.

The security challenges Nigeria faces are undeniably serious, as are the threats against its security officials. Still, there can be no excuse for the flagrant abuses of the law which the case studies in this report illustrate.

²⁰⁹ This information was obtained from SSS Website of the SSS at <http://www.SSS.gov.ng> as at 1 June 2016. The website is currently down and inaccessible.

Below are a number of recommendations which, if implemented, Amnesty International considers may significantly improve the situation for those detained by the security forces including the SSS. Above all the Nigerian authorities should exert all necessary and appropriate political will, starting from the highest level, to assert the unequivocal message that abuses will not be tolerated – and that all those suspected of criminal responsibility for crimes under international law or human rights violations shall be brought to justice in fair trials before ordinary civilian courts and without recourse to death penalty.

NIGERIAN GOVERNMENT

- Issue a public statement with a clear commitment to end human rights violations and to ensure accountability for crimes under international law committed by the SSS.
- Initiate prompt, independent, impartial, and effective investigations into all allegations of torture and other ill-treatment, arbitrary arrest and detention and enforced disappearances by the SSS.
- Urgently implement safeguards against human rights violations by the SSS, including taking immediate measures to end unlawful arrest; unlawful, incommunicado and arbitrary detentions; torture and ill-treatment; and enforced disappearance.
- Ensure that all measures are taken to immediately end the practice of torture, ill -treatment, unlawful arrest and detention and enforced disappearance by the SSS.
- Ensure that the SSS obey all court orders at all times, irrespective of the issuing court.
- Promptly implement into national law the International Convention for Protection of All Persons from Enforced Disappearance, including making declarations, pursuant to Articles 31 and 32 of the Convention, recognizing the competence of the Committee on Enforced Disappearance to receive and consider communications from or on behalf of individuals and other states parties.
- Consult civil society and families of the disappeared on the draft bill to criminalize enforced disappearance and ensure that the offence is defined in accordance with international law and standards.
- Enact legislation making enforced disappearance a crime under national law in accordance with the Convention for the Protection of All Persons from Enforced Disappearance.²¹⁰

²¹⁰ See Amnesty International, No impunity for enforced disappearances: Checklist for effective implementation of the International Convention for the Protection of All Persons from Enforced Disappearance, 9 November 2011 (AI Index: IOR 51/006/2011).
<https://www.amnesty.ca/sites/amnesty/files/2011-11-09ior510062011enenforceddisappearances.pdf>

- Ensure that all allegations of torture, ill treatment and enforced disappearance are promptly, thoroughly, effectively, independently and impartially investigated and, where sufficient admissible evidence exists, prosecute those suspected of criminal conduct irrespective of their rank and status or the security agency they are affiliated with through fair trials before ordinary civilian courts and without recourse to death penalty.
- Ensure that victims of torture and ill treatment, including families of the disappeared, are provided with full and effective reparation to address the harm they have suffered, including restitution, compensation, rehabilitation and satisfaction;
- Introduce legislation to bring the Terrorism Prevention Act into line with international law including by repealing the death penalty and by providing that an individual may only be arrested on reasonable suspicion of having committed a criminal offence; that all individuals must be promptly brought before a court and charged with a recognisable criminal offence; and that law enforcement officers may only use force when strictly necessary and to the minimum extent required under the circumstances.

OFFICE OF THE NATIONAL SECURITY ADVISER

- Ensure that all officers are instructed that arrest and detention must be carried out in strict accordance with international human rights law and standards and constitutional provisions; in particular, ensure that no-one is arrested or detained, including in relation to the prevention, investigation or prosecution of Boko Haram or similar attacks, in the absence of reasonable grounds to suspect them of involvement in a specific criminal offence;
- Ensure that SSS officers are fully aware of and comply with their obligations to respect human rights under the constitution and international human rights law;
- Inform all SSS officers that torture and other ill-treatment is unlawful and that suspected perpetrators, including persons with command responsibility, will be brought to justice in fair trials;
- Make it clear to officers that they must not follow unlawful orders and that superior orders will not be accepted as a defence or justification for carrying out torture or other ill-treatment;
- Suspend all officers against whom there are credible allegations of torture or other ill-treatment or any other human rights violations and initiate internal investigations, in parallel with criminal investigations, aiming to hold to account all suspected perpetrators;
- Release all individuals held by the SSS in its detention centres or other forms of arbitrary or secret detention unless they are charged with recognizable criminal offences and remanded in custody by an independent, regularly constituted court.

- Immediately disclose the fate or whereabouts of victims of enforced disappearance to their families and courts.
- Either immediately release the victims of enforced disappearance or ensure that they are brought promptly before a judge in a civilian court to rule on the lawfulness of their arrest or detention and whether they should be released.
- If people continue to be detained, ensure that they are charged with an internationally recognizable offence and that their rights, including to a fair trial are fully respected.
- Ensure that the victim's families are free to associate with groups working on resolving the issue of enforced disappearances and to peacefully protest in public with fear of reprisal
- Ensure all victims, including family members, are provided with full and effective reparation to address the harm that they have suffered.

TO THE NATIONAL HUMAN RIGHTS COMMISSION

- Continue to regularly seek access to all places of detention in Nigeria, including SSS detention and regularly visit and report on the legality of and conditions in detention. All reports should be made public.
- Exercise authority to investigate all allegations of human rights violations, including allegations contained in this report;
- Ensure an effective and independent complaints system for arbitrary arrests and detention; enforced disappearances and torture; and ensure that all such suspected cases are duly investigated.

TO THE INTERNATIONAL COMMUNITY

- Promote the recommendations in this report during bilateral and multilateral forums and dialogues with the Nigerian government;
- Use all available channels to intercede with the Nigerian government and ensure that transfers of equipment, know-how and training for the SSS do not contribute to human rights violations;
- Provide technical support to improve the investigation procedures of the SSS; and conditions of detention in SSS facilities;
- Urge Nigeria to implement recommendations made to Nigeria during their Universal Periodic Review (UPR) in November 2018, to take all necessary measures to prevent and address enforced disappearance, torture and other ill treatment.

TO THE OFFICE OF THE PROSECUTOR, INTERNATIONAL CRIMINAL COURT

- Open an investigation into the situation in northeast Nigeria and include the human rights violations by the SSS.

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FOR HUMAN RIGHTS.

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TO ONE PERSON, IT

MATTERS TO US ALL.

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